

Co-regulating Gender and Diversity-oriented Human Resources Management: the Potential of International Framework Agreements

Katharina Schiederig
PhD candidate Free University Berlin
Otto-Suhr-Institute for Political Science
Center of Gender and Diversity
Innestr. 22, 14195 Berlin, Germany
Email: katharina.schiederig@fu-berlin.de

INTRODUCTION

The internationalization of business increases the diversity of the workforce within Transnational Corporations (TNCs). Despite numerous studies that have demonstrated the positive effect of a diverse workforce on economic performance and the high cost of discrimination (e.g. Robinson/Dechant 1997), inequalities persist and are continuously exploited in the global value networks. In regard to gender and diversity, TNCs have a double role when relocating and outsourcing their labour-intensive business operations: on the one hand they benefit from the “comparative advantage of women’s disadvantage” and that of other marginalized groups in developing countries (Kabeer 2000) and undermine national standards when undertaking “regime shopping”, on the other hand they might contribute to the emergence of norms in the host country, if higher standards from the home country are transferred (Geppert/Matten/Walgenbach 2006).

Increasingly, large companies strive to integrate equality aspects in their human resources management (HRM). However, these practices are not only determined by efficiency considerations within the company, but also influenced by external actors: national and supra-national political institutions, civil society movements and organized labour.

Different legal regulations exist to counter discrimination at work. The Convention 111 of the International Labour Organisation (ILO) obliges all ILO member states to take measures and adopt legislation against discrimination at work. The OECD Guidelines, the ILO MNE Declaration and the UN Global Compact all contain a non-discrimination clause. Especially the USA and more recently the European countries have introduced equal opportunities legislation; within Europe anti-discrimination and gender mainstreaming policies have been codified both at EU and national level. These political-legal institutions are complemented by increasing numbers of private modes of regulation: company codes of conduct, corporate governance guidelines and multi-stakeholder-initiatives that often also reference non-discrimination. (Cf. Fuchs 2006; Greven/Scherrer 2005)

International Framework Agreements: A New Channel for the Co-regulation of HRM?

A new instrument initiated by the labour movement in their search for strategy development and regulation at transnational level (cf. Schmidt 2007) are International Framework Agreements (IFAs)¹. IFAs are written agreements concluded between a TNC and a Global Union Federation (GUF)² to guarantee minimum labour standards and allow organizing in

¹ The term “International Framework Agreements” is used because of its frequency in the literature and the practicability of the abbreviation IFA. With regard to substance, the term „Global Agreement“ would be more appropriate, since IFAs are not concluded between states.

² A Global Union Federation (GUF) is an international federation that groups national and regional trade unions by industry sector or occupational group. With the 2002 renaming and reorientation process of the former International Trade Secretariats, many of the GUFs have focused on gaining negotiation status for the trade union movement at a global level and concluding International Framework Agreements (IFAs), besides training, networking and campaigning (cf. Schmidt 2007). Five GUFs (UNI, BWI, ICEM, IMF and IUF) account for 75 of 80

companies' global production and supply networks. (Cf. Egels-Zandén/Hyllman 2007, Eurofound 2008, Fichter/Sydow 2008, Riisgaard/Hammer 2008) Central reference of almost all 80 agreements concluded so far³ are the core labour standards of the International Labour Organisation (ILO): the prohibition of child labour and forced labour, freedom of coalition and the right to collective bargaining as well as the elimination of discrimination in respect of employment and occupation (ILO Convention 111). According to ILO Convention 111 discrimination includes "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". Three quarters of IFAs also make reference to ILO Convention 100 that stipulates equal remuneration for men and women workers for work of equal value and some agreements contain further clauses on equal opportunities and positive discrimination policies.

Although IFAs are "soft law" they are negotiated jointly by the social partners, they contain more advanced standards than unilateral codes as well as specifications on their implementation, dissemination and the application throughout the production and supply networks. Many IFAs establish some form of monitoring and audit system, and to varying degrees this is also extended to the suppliers.

Line of Argument

Given the fact that IFAs establish unions as negotiation partners at transnational level and that these documents contain non-discrimination clauses applying to all operations worldwide, it can be asked whether IFAs can be regarded as a new example for anti-discrimination rules within companies that might potentially have global impact. In the following, this paper will analyse the potential of IFAs to influence the transfer of gender and diversity policies throughout the global value networks. It will review the provisions relevant for Gender and Diversity in all 80 IFAs concluded so far and map out the avenues for inclusion in HRM practices. The line of argument can draw on the extensive "varieties of capitalism" and IHRM literature (e.g. Esping-Andersen 1990, Hall/Soskice 2001, Streeck 1992, Walby 2007) that discusses convergence, divergence or hybridization of practices. It will be argued that IFAs – as possible channels of influence on companies by external agents – and more generally the union movement have an important role for gender and diversity-oriented HRM (Fonow/Franzway 2007), but that this potential has been largely untapped so far. Thus, the paper hopes to provide first insights into how external actors might shape the transfer of gender and diversity-oriented HRM practices in large TNCs.

GENDER AND DIVERSITY IN HR STRATEGIES

From a management perspective, the non-discrimination mandate of which the legal foundations have been outlined above is reflected in the "Diversity Management" concept. Diversity takes a positive approach in valuing difference (e.g. in regard to ethnicity, gender, age, disabilities or sexual orientation) as organizational resource and aims at organizational change towards the multicultural organization (Cox 1994). Diversity is a relatively new concept that has made its way from the civil rights movement into human resource management, at first in US-based companies and now increasingly worldwide. Especially large US-American and European-headquartered companies have adopted Diversity Management Approaches (Özbilgin/Tatli 2008). Different arguments are listed for the

IFAs. In around 75% of cases national unions and/or employee representatives (e.g. European works councils) were involved in the negotiations in addition to the GUFs.

³ Different figures circulate on the number of IFAs concluded, depending which criteria are applied. The database set up for the IFA research project at Free University Berlin contains 80 agreements concluded by unions with a TNC that have global scope and contain the core labour standards. Of these, 72 are concluded by one of the GUFs and still in force. The large majority of IFAs has been concluded since 2000.

„Business Case“ for Diversity Management, including human resources (increased talent pool for recruitment, increased company attractiveness to potential employees, growing diversity of the workforce), innovation (diverse organizations produce more creative solutions and are more flexible), marketing (target more appropriately diverse markets and be attractive to socially conscious consumers), financialization (attractive for Socially Responsible Investment) and risk (avoid cost caused by de-motivation and conflict between staff or lawsuits). (Thomas/Woodruff 1999, Krell 2008) Instruments used to achieve these objectives are mainly diversity analysis, training, support, flexible arrangements and affirmative action. However, diversity management approaches that take a holistic approach in integrating different aspects and measures with a truly global scope are still rare.

A special category under the diversity concept is “gender”. The term “gender“ has been coined since the 1970s to qualify the social dimension of the biological sex. It questions the link between biology and the attributed role in society in underlining the performative character of „doing gender“ instead of „being“ (cf. Butler 1990). Because the gender concept has developed stronger theoretical foundations and management techniques than the young diversity approach and because equal treatment between men and women enjoys special legal protection, it makes sense to integrate both approaches in an intersectional perspective and use the term “Gender and Diversity Management”. (cf. Krell 2008)

Gender, Diversity and Trade Unions

Despite some advancements and forerunners, the trade union movement has generally not been at the forefront of the gender and diversity agenda, as several studies have shown (Colgan/Ledwith 2002). In practice, but also in the Industrial Relations literature, gender issues remain marginal. Traditionally, unions have been patriarchal working-class organisations with a focus on male, blue-collar workers. This orientation is increasingly challenged by the forces of global restructuring and diversification of the workforce and internally by marginalized workers’ groups. However, as Colgan and Ledwith show, unions are generally slow to adapt to this new reality: only 1 % of members of trade union governing bodies worldwide are women, officials remain mostly male, native-born, full-time employees and policies are oriented towards protectionism instead of international solidarity. However, in all countries, traditionalism coexists with innovation and transformation, and many unions are slowly changing. Women’s unions are being founded and general unions take proactive measures. Indeed, union need to adapt to remain representative of the workforce and democratically rooted. The inclusion of new groups also offers opportunities for the renewal of the movement. Fonow and Franzway (2007:173) underline the importance of mobilizing women for renewing unions in a transnational perspective. They suggest the potential of International Framework Agreements for this: „IFAs (...) can be useful to feminists because they contain strong equity clauses, including protection for the rights of gays and lesbian workers.“

ANALYSING INTERNATIONAL FRAMEWORK AGREEMENTS

There have been a few studies on International Framework Agreements (e.g. Eurofound 2008, Papadakis 2008, Riisgaard/Hammer 2008, Sydow/Fichter/Helfen under way), but there has been no research focussing specifically on the non-discrimination clause to date.

Methods

Data was collected through a database-driven content analysis of all IFA documents, 24 interviews with HR managers, GUF representatives and experts and one group discussion with GUF representatives on IFAs in general. The research is ongoing; a quantitative and qualitative study targeting gender and diversity issues more specifically is planned.

Content Analysis

The content analysis of IFA documents shows that almost all companies that have signed an IFA have committed themselves to non-discrimination policies (see Figure 1). 85 % of IFAs include a reference to the non-discrimination clause and in many cases explicitly name the Convention 111 of the ILO. Around 60 % list diversity categories such as sex/gender or ethnicity that might be a cause for discrimination, and some even list categories which go beyond the text of the convention (such as sexual orientation or marital status). 77 % of analysed IFAs also make reference to ILO Convention 100 that stipulates equal remuneration for equal work for women and men. 19 % of IFAs promise to act against sexual harassment at work. The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is referenced by one IFA.

Figure 1: Gender and Diversity-relevant contents in IFA documents

n=75 ⁴	Total number of IFAs including this clause	% of IFAs including this clause
Any form of reference	66	88,00
ILO Convention 111 (discrimination)	64	85,33
ILO Convention 100 (equal remuneration)	58	77,33
ILO Convention 156 (workers with family responsibilities)	2	2,67
Further provisions on gender equality	11	14,67
Further provisions on diversity	2	2,67
Further provisions on maternity protection	2	2,67
Further provisions on sexual harassment	14	18,67

Nine companies have not included any reference to gender, diversity or discrimination in their IFAs (Accor, Metro, Carrefour, Endesa, Evonik, G4S, UPU, National Australia Bank, WAZ; Danone and Nampak do not reference C. 111 but contain further equality measures). There is no significant correlation between ignoring gender and diversity issues and country of origin. However, French companies show a tendency to include stronger provisions on gender and diversity. It can be noted that UNI is the GUF with the highest number of IFAs concluded (27) but also that with the highest number of IFAs that do not include any non-discrimination clause (5 of 9 agreements without any reference have been concluded by UNI). This is probably linked to the quantitative instead of qualitative strategy UNI pursues in terms of IFAs, in the service industry where gender and diversity aspects are highly relevant.

Some documents also contain further clauses against gender-specific discrimination and sexual harassment and for affirmative action. Already the first IFA, concluded in 1989 between Danone and IUF, contained very specific provisions for an „Action Programme for the Promotion of Quality of Men and Women at the Workplace”, providing for gender analysis, a working group with management and staff representatives, an action plan with follow-up and evaluation. However, this strategy of a comprehensive “sustainability code” was not taken up in later IFAs. Here is a typical example for the non-discrimination and diversity clauses in more recent IFAs:

⁴ Of the 80 IFAs concluded as of June 2009, 75 have been included in the content analysis, due to a lack of availability of the remaining documents.

“We uphold and affirm equal opportunity among our associates, regardless of the color of their skin, race, gender, age, nationality, social origin, handicap, or sexual preference. We respect the political and religious convictions of our associates as long as they are based on democratic principles and tolerate those of different persuasions. (...) We observe the provisions of ILO Convention no. 100 with respect to the principle of ,equal remuneration for work of equal value’.” (Basic principles of social responsibility at Bosch, concluded with IMF, 2004)

PSA Peugeot-Citroën and Brunel declare in their agreements concluded with the IMF their good intention for further diversity policies: „to apply and promote best practices beyond what is legally required and to fight racism, sexism, xenophobia and, more generally, intolerance of difference and to ensure respect for the personal lives of employees.“ Some companies (e.g. Statoil) declare to consider gender equality in recruitment, training and management. As the example of Portugal Telecom shows, it is also possible to include discrimination clauses relevant to a particular industry:

“Non discrimination. Absence of discrimination in employment shall be maintained so that all workers may enjoy equality of opportunities and treatment, regardless of race, colour, sex, religion, political opinion, national extraction or social origin or other distinctive characteristics (ILO Conventions nos. 100 and 111); (...) The company's electronic services shall not be used as means of sexual harassment or for the diffusion of offensive, remarks of a personal nature or remarks regarding the age, sexuality, race, handicap or looks, nor to visit sites that promote pornography, racism and intolerance.” (Social Responsibility Code of Conduct Between the Portugal Telecom Group, UNI, SINTTAV, STPT and SINDELCO, 2006)

ENI and Rhodia commit themselves to affirmative action measures to increase the diversity of staff. The Lukoil and Rhodia IFAs also mention the ILO Convention 156, Lukoil promises „paying special attention to defending rights of the working women, expectant mothers, nursing mothers and women with large families.“

„Rhodia rejects any form of discrimination and is committed to respecting diversity and promoting equality of opportunity. The company is a signatory to the Diversity Charter in France and has made the provisions of ILO Convention 111 company policy. This convention rejects any infringement of equal opportunity or fair treatment in employment and the basis of race, sex, skin color, religion, political or trade union views, national origin or socioeconomic background. Rhodia will pay special attention to its employees with family responsibilities and in this respect will refer to measures in ILO Convention 156 given in chapter II - Article 1 1.1 of this agreement. This approach includes specific efforts to promote employee diversity.“ (Global Corporate Social Responsibility Agreement between Rhodia and Icem, 2005/2008)

Some companies (such as Daimler) are very careful to show that their commitment depends on national legislation and may vary in different countries.

„Equal opportunities: DaimlerChrysler undertakes to uphold equal opportunities with respect to employment and to refrain from discrimination in any form unless national law expressly provides for selection according to specific criteria. Discrimination against employees based on gender, race, disability, origin, religion, age or sexual orientation is not acceptable. Equal pay for equal work: Within the scope of national legislation, DaimlerChrysler respects the principle of equal pay for work of equal value, e.g. for men and women.“ (Social Responsibility Principles of DaimlerChrysler, concluded with IMF, 2002)

It is interesting to note that unlike for other rights and monitoring procedures there has not been a qualitative development towards stronger diversity clauses in IFAs.

Interview Results

Although the large majority of agreements contain some kind of non-discrimination clause or further provisions on paper, this has apparently had little practical relevance up to date. During the group interview, representatives of all GUFs stated that there has not been any complaint through IFA procedures on the grounds of discrimination. Discrimination has never been raised by any local union to the GUFs, while there have been many complaints for union rights. Still, most GUFs recognize gender and diversity as important issues, apart from some that do not see the relevance in their respective male-dominated industry (e.g. construction). However, they seem unsure of how to use IFAs as an instrument for enhancing equality. Several interviewees indicated the difficulty of realising equality in different countries, e.g. Saudi-Arabia. In the case of those IFAs that contain further provisions on gender and diversity (e.g. French chemical company Rhodia) this was on the initiative of management and in line with an existing gender and diversity policy within the company. Unionists said they pick up the issue “when there is negotiation space”. These first results indicate barriers for further agenda setting of diversity issues within the IFA process on the trade union side: “It is our own people we have problems with at this stage”, said one GUF representative.

DISCUSSION: TRANSFER OF PRACTICES AND THE ROLE OF TRADE UNIONS

Can IFAs thus be regarded as a new example for anti-discrimination rules within companies that might potentially have global impact? Given the fact that these documents contain non-discrimination clauses applying to all operations worldwide and that IFAs establish unions as negotiation partners at transnational level, IFAs offer the potential to reinforce anti-discrimination rules and set diversity management on the agenda. Although unions focus on the capacity of IFAs as an instrument for organizing and establishing union rights, IFAs might open a new channel for the co-regulation of other HRM practices at transnational level, since they establish an avenue for social dialogue between trade unions and management at local and global level. From the interviews we have seen that unions do not actively use the non-discrimination clause. It is included in IFAs because it is part of the ILO core labour standards. “IFAs address all kinds of standards, but not all apply”, as one GUF representative put it. However, these are written regulations that in some cases link to existing gender and diversity policies within the corporation and in other cases might trigger a discussion between HR management and unions or employee representatives at global and local level.

In any case, the large majority of companies that have signed an IFA have committed themselves to non-discrimination in written form. In this regard, it is interesting to note that 85 percent of the IFAs concluded so far have been with companies headquartered within Europe:

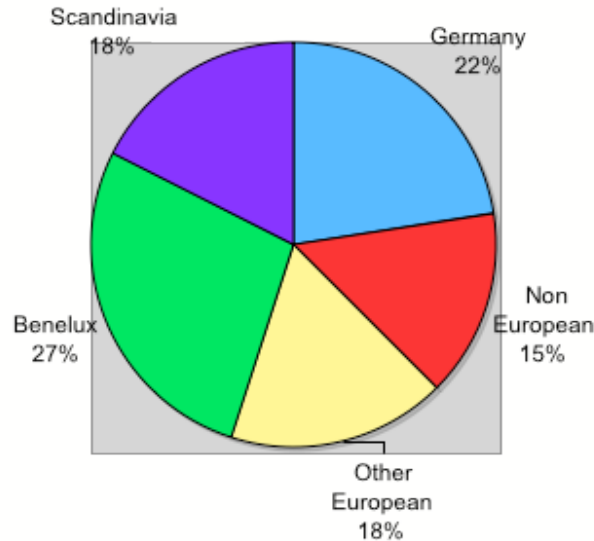


Figure 2: IFAs by country of origin of TNC (in %, n=80)

The concentration of IFAs in European TNCs suggests that the institutional setting in the European Union (EU) and the European culture of labour relations and social dialogue have laid the groundwork for the signing of such global accords (Rudikoff 2005). Also, the EU as the world's most integrated regional organisation and governance system beyond the national state is at the forefront in terms of institutionalizing anti-discrimination and gender mainstreaming policies. If we assume a certain path dependency within organisations and an isomorphism between them, this raises the question if European institutions offer advanced gender and diversity norms that private actors might transfer elsewhere. As a hypothesis, it is likely that convergence, divergence and hybridization of practices coexist (e.g. Esping-Andersen 1990, Hall/Soskice 2001, Streeck 1992, Walby 2007) depending on home and host country effects, sectoral effects, organizational and individual effects, trade union strategies, IFA contents, mimicry and discursive effects. This needs further research.

CONCLUSIONS

To conclude, IFAs can indeed represent a means for codifying a diversity approach within transnational corporations and for extending it. The top-down perspective that diversity often takes could be partly corrected through union involvement. For the time being however, there are no indications that unions actively use this potential, although it might be helpful for representative renewal.

To put it into perspective, there is only a relatively small number of IFAs (ca. 80), compared to some 65,000 TNC (UNCTAD 2006). IFAs as a strategy can only be effective if the European focus is overcome, if US- and Asian-based companies can be motivated to conclude IFAs. In recent years more IFAs have been concluded with non-European TNCs, and especially UNI pursues a strategy to extend IFAs to Asian and Anglo-American companies. Diversity may be a trigger for US companies that are reluctant towards union rights and thus represents a possible entry point for unions. However, Diversity is a management approach that largely ignores patterns of exploitation in the global economy. By integrating gender, trade unions could push the agenda for Gender and Diversity Management, using a concept with high management affinity and including serious discrimination issues at the same time. IFAs thus represent an opportunity on paper that could be both fructified at global level and adapted to the specific circumstances at local level.

REFERENCES

- Butler, Judith (1990): *Gender Trouble: Feminism and the Subversion of Identity*, London/New York: Routledge.
- Colgan, Fiona/Ledwith, Sue (2002): *Gender, Diversity and Trade Unions. International Perspectives*, Routledge: London and New York.
- Egels-Zandén, Niklas/Hyllman, Peter (2007): Evaluating Strategies for Negotiating Workers' Rights in Transnational Corporations: The Effects of Codes of Conduct and Global Agreements on Workplace Democracy, in: *Journal of Business Ethics*, 76 (2), pp. 207-223.
- Esping-Andersen, Gosta (1990): *The Three Worlds of Welfare Capitalism*, Cambridge: Polity Press.
- European Foundation for the Improvement of Living and Working Conditions (2008): *Codes of conduct and international framework agreements: New forms of governance at company level*, Luxemburg.
- Fichter, Michael/Sydow, Jörg (2008): *Organization and Regulation of Employment Relations in Transnational Production and Supply Networks. Ensuring Core Labour Standards through International Framework Agreements?*, Research Proposal.
- Fonow, Mary Margaret/Franzway, Suzanne (2007): Transnational union networks, feminism and labour advocacy, in: Schmidt, Verena: *Trade union responses to globalization*, Geneva: International Labour Office, pp. 165-175.
- Gereffi, Gary/Humphrey, John/Sturgeon, Timothy (2005): The governance of global value chains, in: *Review of International Political Economy*, 12 (1), pp. 78-104.
- Geppert, Mike/Matten, Dirk/Walgenbach, Peter (2006): Transnational institution building and the multinational corporation: An emerging field of research, in: *Human Relations*, 59 (11), pp. 1451-1465.
- Hall, Peter A./Soskice, David (2001): *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford: Oxford University Press.
- Kabeer, Naila (2000): *The power to choose. Bangladeshi women and labour market decisions in London and Dhaka*, London: Verso.
- Krell, Gertraude (2008): *Chancengleichheit durch Personalpolitik. Gleichstellung von Frauen und Männern in Unternehmen und Verwaltungen. Rechtliche Regelungen, Problemanalysen, Lösungen*, Wiesbaden: Gabler.
- Papadakis, Konstantinos (2008): *Cross-Border Social Dialogue and Agreements: An Emerging Global Industrial Relations Framework?*, Geneva: International Institute for Labour Studies.
- Riisgaard, Lone/Hammer, Nikolaus (2008): *Organised Labour and the Social Regulation of Global Value Chains*, DIIS Working Paper no. 2008/9.
- Robinson, Gail/Dechant, Kathleen (1997): Building a Business Case for Diversity, in: *The Academy of Management Executive*, 11 (03), pp. 21-31.
- Rudikoff, Lisa P. (2005): *International Framework Agreements: A Collaborative Paradigm for Labor Relations*, Global Law Working Paper 01/05, Symposium "Transnational Corporations and Human Rights", New York: New York University School of Law.
- Schmidt, Verena (2007): *Trade Union Responses to Globalization. A review by the Global Union Research Network*, Geneva: International Labour Office.
- Streeck, Wolfgang (1992): *Social Institutions and Economic Performance. Studies of Industrial Relations in Advanced Capitalist Economies*, London: Sage.
- Thomas, R. Roosevelt Jr./Woodruff, Marjorie I. (1999): *Building a House for Diversity: How a Fable about a Giraffe & an Elephant Offers New Strategies for Today's Workforce*, New York: Amacom Books.
- Walby, Sylvia (2007): Introduction: Theorizing the Gendering of the Knowledge Economy: Comparative Approaches, in: Walby, Sylvia et al.: *Gendering the Knowledge Economy. Comparative Perspectives*, Houndmills: Palgrave Macmillan, pp. 03-50.