

**FOR DEBATE AND GUIDANCE**

## SEVENTH ITEM ON THE AGENDA

**General status report on ILO action concerning discrimination in employment and occupation****Introduction**

1. It may be recalled that ILO action concerning discrimination was originally considered by the Governing Body's Committee on Discrimination. Following the restructuring of the Governing Body in 1993, which discontinued the Committee, it was agreed that the matter would be taken up by the LILS Committee.<sup>1</sup> The situation of workers of the occupied Arab territories was discussed separately by the Governing Body until March 1994, at which time the Governing Body recommended that it be entrusted to the LILS Committee.<sup>2</sup>
2. The fight against discrimination is intrinsically linked with the ILO's mission to promote social justice through securing decent work for all men and women. Indeed, the ILO has historically played a crucial role in addressing discrimination at work and in spearheading action to eliminate it, and is continuing to do so under its Decent Work Agenda. The present report is submitted annually to the LILS Committee to enable it to review, on a regular basis, the ILO's work in member States and across the Office concerning the elimination of discrimination in employment and occupation. This is in line with the Committee's mandate to consider "action relating to the protection of human rights, with particular reference to the elimination of discrimination".<sup>3</sup>
3. As the information reported previously under this item has shown, equality and non-discrimination concerns are increasingly an integrated feature of the ILO's activities, while, at the same time, specific action to promote this right is being undertaken by various ILO units, offices and programmes. While certain aspects of this topic are also addressed

<sup>1</sup> GB.256/13/24. See also GB.259/LILS/6/6; GB.259/LILS/7/5.

<sup>2</sup> GB.259/9/31; GB.261/LILS/7/5.

<sup>3</sup> ILO: Compendium of rules applicable to the Governing Body of the International Labour Office, Geneva, 2006, para. 21.

in other Governing Body forum,<sup>4</sup> this agenda item provides an opportunity to examine the evolving strategies and methods used throughout the Office to promote equality and non-discrimination, on the basis of selected examples of action taken during the period under review. In the absence of an overall ILO programme on discrimination, this has been an important avenue for obtaining the Governing Body's guidance regarding future action.

## **Situation of workers of the occupied Arab territories**

4. The Director-General again sent missions to Israel, the occupied Arab territories and the Syrian Arab Republic in 2007 and submitted a report on the situation of workers in the occupied Arab territories<sup>5</sup> to the International Labour Conference at its 96th Session (June 2007).<sup>6</sup> The Report drew attention to systematic disrespect of the human and labour rights of Arab workers and their families, indicating that the “[d]eficits of decent work can be analysed in terms of lack of respect in the first place for fundamental principles and rights at work.”<sup>7</sup>
5. In East Jerusalem, the expulsion of Palestinian residents through the permit system, as well as indirect discrimination by making employment dependent on criteria such as completion of military service or fluency in Hebrew, were noted. In both the occupied Syrian Golan and East Jerusalem, a general lack of employment opportunities forces qualified young people to accept low-skilled work in Israel for which they are vastly overqualified. In this context it can also be noted that in March 2007, the Committee on the Elimination of Racial Discrimination (CERD) of the United Nations Office of the High Commissioner for Human Rights (OHCHR) expressed deep concern that “the severe restrictions on the freedom of movement in the occupied Arab territories, targeting a particular national or ethnic group ... have created hardship and have had a highly detrimental impact on the enjoyment of human rights by Palestinians”, including the rights to education and work.<sup>8</sup>
6. At its 300th Session (November 2007), the Governing Body had before it a paper prepared by the Office containing information on the progress made and plans for follow-up to the technical cooperation for the occupied Arab territories.<sup>9</sup>

<sup>4</sup> For example, in relation to the action plans regarding the elimination of discrimination in the context to the follow-up to the Declaration on Fundamental Principles and Rights at Work, or the action plans regarding migrant workers and gender equality, or in the context of the discussions on corporate social responsibility.

<sup>5</sup> The West Bank, including East Jerusalem, the Gaza Strip and the occupied Syrian Golan.

<sup>6</sup> Report of the Director-General, *Appendix. Report on the situation of workers of the occupied Arab territories*. International Labour Conference, 96th Session, Geneva, 2007.

<sup>7</sup> *ibid.*, para. 98.

<sup>8</sup> *Concluding observations of the Committee on the Elimination of Racial Discrimination*, doc. CERD/C/ISR/CO/13, 70th Session, 19 February to 9 March 2007, para. 34.

<sup>9</sup> GB.300/7.

## Guidance from the supervisory process

7. Given that in 2006 and 2007, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) had the opportunity to examine reports concerning the Conventions on workers with family responsibilities and migrant workers, a few recurrent issues addressed by the Committee under these Conventions can be noted. As regards the Workers with Family Responsibilities Convention, 1981 (No. 156), the CEACR noted in a number of cases the introduction of new rights and entitlements of workers with family responsibilities. At the same time, the Committee drew attention to the need to ensure that measures facilitating the participation of workers with family responsibilities in employment do not reinforce stereotyped assumptions that women should bear the primary responsibility for family and household-related tasks. The Committee consistently emphasized the importance of encouraging a greater sharing of family responsibilities between men and women.
8. Under the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Committee frequently commented on the principle of equal treatment between nationals and migrant workers. Most countries examined have legislation providing for equality and non-discrimination of migrant workers, but there was often insufficient information provided to allow the Committee to assess the level of its enforcement and implementation.
9. In June 2007, the Committee on the Application of Standards of the International Labour Conference discussed the application of the Equal Remuneration Convention, 1951 (No. 100) by *Japan* and of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) by *Bangladesh* and *India*. The Office sent follow-up letters to the governments concerned regarding the conclusions adopted by the Conference Committee. In October 2007, the Office undertook a high-level mission to the *Islamic Republic of Iran* to follow up on the 2006 Conference discussion concerning Convention No. 111.

## The 2007 Global Report

10. The second Global Report on the elimination of discrimination under the follow-up to the Declaration on Fundamental Principles and Rights at Work was discussed at the International Labour Conference in June 2007. The Office held special launch events in different regions and locations, including Brussels, Bangkok, Beijing, Berlin, Budapest, and Brasilia. The Report was also presented and discussed in a number of countries in Central and Eastern Europe.
11. In November 2007, the Governing Body endorsed the second plan of action on the principle and right of non-discrimination. The plan of action envisages activities to address racial discrimination and to promote equal remuneration between the sexes through awareness raising, capacity building, and the development of practical tools.<sup>10</sup> It also envisages to integrate action on equality into the Decent Work County Programmes (DWCPs).

<sup>10</sup> GB.300/TC/4.

## ILO action: Selected examples

### Promoting relevant ILO Conventions

12. During 2007, the Office accompanied and supported several processes towards ratification and application of ILO Conventions relevant to equality and non-discrimination. For instance, in *Lao People's Democratic Republic*, the Office supported constituents' efforts with a view to ratifying Conventions No. 100 and 111 in 2008. *Albania* and *Paraguay* ratified the Workers with Family Responsibilities Convention, 1981 (No. 156), in October and December 2007, respectively, after having benefited from ILO assistance. Paraguay requested further assistance with regard to supporting the elaboration of an action plan for the Convention's implementation, in cooperation with other UN agencies. Following the ratification by *Bulgaria* of Convention No. 156 in 2006, the ILO provided assistance to the constituents with a view to developing a strategy for the Convention's application through the holding of a tripartite workshop, as envisaged under the DWCP. Throughout 2007, a series of activities were implemented in *Azerbaijan* to prepare for the ratification and application of Convention No. 156, which has been identified as one of the expected DWCP outcomes. In October 2007, the Office conducted a training seminar on the Maternity Protection Convention, 2000 (No. 183) for representatives from women's desks of trade unions from 25 Central and Eastern European countries. The training aimed at enhancing the trade unions' understanding of the Convention and to assist their national ratification campaigns.
13. Following the ratification by *Albania* of Conventions No. 97 and 143, the ILO provided training on ILO reporting and the protection of migrant workers' rights, as well as comments on draft legislation relating to these Conventions. A series of surveys of national legislation on labour migration in the six countries of the Central African Economic and Monetary Community (CAMEC) were undertaken with a view to elaborating a strategy for ratification of these Conventions by these countries.
14. *Spain* ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) in February 2007. The ILO's efforts over a number of years resulted in the ratification of Convention No 169 by *Nepal* in September 2007. The focus of ILO action is now shifting towards supporting national implementation. Comprehensive project proposals to this end have been submitted to donors. The Office has also continued to assist the Government of *Chile* with respect to ratification of Convention No. 169.
15. Following a range of advisory and technical cooperation activities over a number of years in *Thailand*, the country ratified the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) in October 2007. *Viet Nam* has also committed to ratifying this Convention and is currently receiving ILO assistance to this end. The Office has also promoted the ratification and application of Convention No. 159 in *Afghanistan*, including through assisting introduction of disability legislation.

### Promoting social dialogue on equality and non-discrimination

16. A tripartite discussion took place in September 2007 with representatives from the International Organisation of Employers (IOE), the International Trade Union Confederation (ITUC), and Geneva-based Global Union Federations (GUF), as well as selected government representatives based in Geneva, to share information on current ILO research, programmes and ratifications related to Convention No. 156 and to seek guidance from these representatives for taking forward the ILO's work in this area. The IOE and

ITUC confirmed support for the ILO's work addressing the needs of workers with family responsibilities in developing countries as a means of poverty reduction, promotion of decent work, gender equality, and optimization of the labour force.

17. In October 2007, the Regional Trade Union Women's Conference on Discrimination of Women in the Workplace took place in Sofia, Bulgaria, convened in the context of the ILO/ITUC/Flemish project on discrimination against women. The more than 100 participants from 28 countries of Central and Eastern European States and newly independent countries adopted a comprehensive action plan to guide and support trade union policies and action on discrimination against women in the countries covered. The action plan, inter alia, provides for the strengthening of unions' capacity to address gender equality within their own organizations, through increased cooperation with relevant ministries and national gender equality agencies and in the context of collective bargaining. The ITUC and the ILO jointly held a seminar in Geneva from 4 to 7 December 2007 aimed at developing a trade union strategy to fight racial discrimination and xenophobia.
18. In April 2007, an inter-regional tripartite meeting on HIV/AIDS was held in Dubai, United Arab Emirates, in cooperation with UNDP and UNAIDS, bringing together 18 tripartite delegations from West Asia and northern Africa. The meeting's objective was the strengthening, on the basis of ILO standards, of national laws and policies and coordination mechanisms on HIV/AIDS, as well as action at the enterprise level. A strategy and programme on HIV/AIDS in the world of work for the Arab region is currently under preparation.

### Strengthening laws, polices and institutions

19. The Office elaborated and published several guides and tools to support the development of national policies and legislation addressing discrimination. These tools are available to constituents and are also used in the context of the regular training activities of the Office on equality and non-discrimination, including the programmes offered by the International Training Centre of the ILO, Turin. The publication *Eliminating discrimination against indigenous and tribal peoples in employment and occupation: Guide on Convention No. 111*, published in December 2007, is intended to serve as a source of information and as a tool for policy-makers and decision-makers and indigenous peoples. The publication *International labour standards on migrant workers: Guide for policymakers and practitioners in Asia and the Pacific* is a reference guide for policy-makers and practitioners. Another example is the ILO Guide on equal pay which has been finalized and will be published in 2008. The Guide is aimed at assisting constituents to tackle challenges in the application of Convention No. 100, as identified by the CEACR in its 2007 general observation on equal remuneration.
20. A new ILO report entitled *The right to decent work of persons with disabilities* highlights the principal legal instruments, policies and initiatives of relevance to the employment of persons with disabilities, and issues to be tackled; and sets out an agenda for future action. The ILO continued its technical cooperation activities in a number of African and Asian countries to support the development of laws and policies regarding equal opportunities of workers with disabilities. This included seminars targeting parliamentarians, government officials and workers' and employers' representatives, as well as studies in countries such as *China, Mongolia, Viet Nam and Zambia*.

21. With regard to discrimination against workers with HIV/AIDS, the Office continued to promote the ILO code of practice on HIV/AIDS and the world of work and Convention No. 111 as instruments to address discrimination based on HIV/AIDS.<sup>11</sup> In some 20 countries, the ILO supported constituents in putting into place national policies that address HIV/AIDS at the workplace, including through ensuring respect for the principle of non-discrimination.<sup>12</sup> A survey has been published which presents innovative legislation, including anti-discrimination legislation relating to HIV/AIDS in 14 sub-Saharan African countries.
22. Capacity building continued to be an important means to promote the implementation and enforcement of national laws and policies and to stimulate concrete action at workplaces. A number of workshops and roundtables for government officials and social partners on Conventions No. 100 and 111 were held, including in *Egypt, Eritrea, Mongolia* and *Viet Nam*. In *China*, two workshops on discrimination were held for labour inspectors. The International Training Centre of the ILO, Turin, in cooperation with relevant headquarters units, continued to develop and offer a wider range of training courses and modules addressing equality and non-discrimination, including its courses on gender equality, indigenous and tribal peoples, and corporate social responsibility (CSR), as well as the training courses for judges and lawyers. In 2007, the Centre decided to establish a specific programme on discrimination which will be launched in 2008.
23. The integration of equality issues in national policy frameworks for development continued to be an important entry point for the ILO to promote action to eliminate discrimination. Through the Promoting Equal Opportunities for Women and Men in the Country Employment Reviews of Stability Pact Countries Project, the ILO provides assistance to *Bosnia and Herzegovina, The former Yugoslav Republic of Macedonia*, and *Montenegro* to mainstream gender equality issues in employment and labour market policies. The ILO has also worked to promote the inclusion of the concerns of indigenous peoples in Poverty Reduction Strategy Papers (PRSPs) in *Cambodia, Cameroon* and *Nepal*. In *Pakistan*, the ILO is implementing a project addressing women's employment concerns and working conditions.
24. In a number of countries, specific activities to promote equal remuneration for men and women for work of equal value have commenced. In *Chile*, an equal remuneration programme is currently under way which studies legal and economic aspects of equal pay and which will produce information and awareness-raising materials. In the Arab region, the Office assisted the constituents in *Egypt* and *Jordan* to launch an initiative to strengthen the application of Convention No. 100 through objective job evaluation. Similar initiatives are envisaged in other countries of the subregion. A series of national studies on equal pay is ongoing in Asia.
25. The ILO's joint effort with the Ministry of Labour of *Lebanon*, United Nations Development Fund for Women (UNIFEM), and the OHCHR led to the convening of a national forum of relevant national stakeholders to address the situation of women domestic migrant workers and, subsequently, to the creation of a national steering committee which received ILO/OHCHR support in developing a standard unified contract. In the *Philippines*, the Office continued to support awareness-raising initiatives to promote the adoption of legislation to protect domestic workers.

<sup>11</sup> The code is now available in 51 languages and in preparation for three other languages.

<sup>12</sup> This included Armenia, Belize, Botswana, Burkina Faso, Burundi, Cambodia, Eritrea, Malawi, Pakistan, Sierra Leone, Sri Lanka, Trinidad and Tobago and Zambia.

26. The ILO continued to implement a project covering *Bolivia*, *Paraguay* and *Peru* to support governments and social partners in their action to eliminate forced labour and labour market discrimination against indigenous peoples and women, as a means to reduce poverty and to create decent work opportunities in rural areas. The training activities carried out in this framework were geared to supporting the creation of broad-based national alliances against forced labour and discrimination. This initiative involved a number of units across the Office.

### Promoting equality in the workplace

27. Within the project on Combating inequalities and discrimination in the world of work, funded by the Government of Norway, a toolkit entitled “Freedom from Racism” was developed which provides insights and models aimed at identifying different strategies available to trade unions with a view to strengthening their capacity to understand and address racism at the workplace. The ILO is also developing a series of training packages on diversity and equality at the workplace to enhance the capacity of employers’ organizations to assist and work with enterprises to launch and further develop initiatives in this area. A first package focusing on work and family has been published, and a module on ageing and older workers is being finalized.
28. Within the framework of a US Department of Labor/Middle East Partnership Initiative-funded project, a pilot programme aimed at promoting equality at the workplace in *Morocco* has been initiated which involves a survey of employment policies and practices in six medium-sized enterprises with a view to identifying and addressing instances of gender bias. In *Hungary*, the project on CSR and non-discrimination was completed and raised interest in diversity at the workplace. One of the lessons learned is that translating such interest into sustained commitment and action remains a challenge.

### Expanding the knowledge base

29. Research into the dynamics of discrimination is crucial for promoting policy dialogue and the design of appropriate interventions based on the relevant international labour standards. The ongoing research project on the economic impact of international labour standards includes a study on the impact of equality standards. In the *Philippines* and *Viet Nam* a research project on work, income and gender is under way to provide an in-depth analysis of gender inequalities and discrimination in the labour market, including with respect to remuneration and occupational segregation.
30. Under the Project to Promote ILO Policy on Indigenous and Tribal Peoples, case studies concerning discrimination in employment and occupation in *Bangladesh*, *Kenya* and *Nepal* were prepared, focusing on indigenous peoples’ access to their traditional occupations. A series of studies was launched in Latin America to explore the gender dimensions of work-related discrimination against indigenous peoples. The International Programme on the Elimination of Child Labour (IPEC) is currently carrying out a subregional project focusing on child labour among indigenous and tribal peoples in Latin America, in cooperation with UNICEF. In this context, a series of national studies have been finalized in Central America, and concrete recommendations have been finalized.
31. In 2007, the ILO, in cooperation with the Governments of *France* and *Sweden*, completed studies to assess the prevalence of ethnic discrimination in the labour markets of these countries. Both studies confirmed that the ethnic background of job applicants considerably influences decisions of employers during selection and recruitment. The

studies are expected to assist the governments concerned in reviewing and strengthening the existing anti-discrimination measures.

## **Influencing the global agenda and building partnerships**

32. The theme of the UN International Day of Disabled Persons, 3 December 2007, “*Decent Work for Persons with Disabilities*”, provided the ILO with the opportunity to raise awareness of work-related disability issues through special events in Geneva and in a number of countries. The ILO has also become a member of the Global Partnership for Disability and Development – an international network of organizations and individuals formed to accelerate the inclusion of people with disabilities into mainstream social and economic development. It participated in the first meeting of the Inter-agency Support Group for the Convention on the Rights of Persons with Disabilities (CRPD). While the adoption of the CRPD gave a new impetus to ILO activities to promote equal opportunities for persons with disabilities in training and employment, it also raises the question of the ILO’s capacity to deal with the increasing demand for advisory services in this area.
33. On 13 September 2007, the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples, which was welcomed by the CEACR. It can be noted that, while the instruments are of a very different legal nature, the Declaration and Convention No. 169 promote the human rights of indigenous peoples in a coherent manner. The Declaration provides an opportunity for the ILO to promote Convention No. 169 and other Conventions relevant to indigenous and tribal peoples, in cooperation with the UN system.<sup>13</sup> The Office contributed to the development of the United Nations Development Group (UNDG) Guidelines on Indigenous Issues, ensuring that ILO standards are appropriately taken into account. Substantive contributions were made to the 2007 sessions of the United Nations Permanent Forum on Indigenous Issues and the Inter-Agency Support Group on Indigenous Issues.
34. The Office continued cooperating with the UN human rights treaty bodies which deal with non-discrimination and equality issues, including through providing reports and participation in briefings. At the field level, the Office has contributed to CEDAW-related processes within United Nations Country Teams (UNCT). The CEDAW process in fact illustrates that ILO cooperation with this treaty body is important in two ways: (1) to ensure coherent and consistent recommendations of UN and ILO supervisory bodies; and (2) to provide a platform for joint action within the UN system to promote equality at the country level.
35. The ILO also contributed to the work on discrimination based on work and descent of the Special Rapporteurs of the former United Nations Sub-Commission on the Promotion and Protection of Human Rights in the finalization of the draft Principles and Guidelines for the Elimination of Discrimination based on Work and Descent. In cooperation with OHCHR and the UN Drug Control Programme (UNDCP), the Office co-organized an expert meeting on diversity in policing in January 2008 to develop a toolkit for promoting the integration of ethnic minorities through diversity in policing.

<sup>13</sup> Article 42 of the UN Declaration on the Rights of Indigenous Peoples provides that “the United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow-up the effectiveness of this Declaration”.

## Conclusions

36. Eliminating discrimination is a long-term undertaking. As emerges from the work of the CEACR, progress in law and policy can often be noted, but this does not necessarily translate into more equality for those facing discrimination in their daily lives. Any action taken by the ILO in this area has therefore to stand the test of whether it is capable of contributing to increased momentum for change at the national level. During the last year, a number of tools on various aspects of the principle of non-discrimination have been produced which are intended to promote social dialogue and offer practical advice on implementing the relevant standards and policy options. The challenge is now to make good use of them, including through adaptations to specific national or regional contexts.
37. Action to combat discrimination is now a well-established feature of UN efforts to assist countries in their development process. This is indeed an entry point for the ILO to promote and implement action to secure decent work for those who are the most affected by poverty, including women, indigenous and tribal peoples, men and women workers with disabilities and migrant workers. While the UN system as a whole tends to rely on instruments such as CEDAW or CRPD as reference documents, it is crucial that relevant ILO Conventions are fully taken into account as well. This is particularly important where the UN system provides advice on policies and legislation. In order to respond to this challenge, a strong ILO involvement in the various inter-agency groups and UNCT theme groups on gender and human rights is necessary.<sup>14</sup> But ILO standards and supervisory comments need also to be better reflected in the UN policy documents and training packages on the human rights-based approach to development.
38. Social dialogue and involvement of all relevant stakeholders at the national level is essential for bringing about a strengthened national legal and policy framework on non-discrimination, but also for initiating long-term processes for their implementation and for ensuring continuing commitment at all levels. Where broad-based commitment exists to address decent work deficits resulting from discrimination and exclusion, the ILO should be prepared to accompany and support longer term processes.

Geneva, 12 February 2008.

*Submitted for debate and guidance.*

<sup>14</sup> This is also in line with the ECOSOC Ministerial Declaration of 2006 which commits governments to consider *ratifying and fully implementing ILO Conventions concerning women, youth, and persons with disabilities, migrant workers and indigenous peoples* (emphasis added).

## Appendix

### Selected publications and working papers

ILO. (2007). *Digest of good legislative practices relating to HIV/AIDS in selected African countries*, DIALOGUE Working Paper No. 12.

–. (2007). *Eliminating discrimination against indigenous and tribal peoples in employment and occupation: A guide to ILO Convention No. 111*, Geneva.

–. ILO (2007). *Employability: A resource guide on disability for employers in Asia and the Pacific*, Bangkok.

–. ILO (2007). *International Labour Standards on Migrant Workers' Rights: Guide for Policymakers and Practitioners in Asia and the Pacific*, Bangkok.

–. ILO (2007). *Link and learn: Progress assessment of the approach adopted to promoting the inclusion of women entrepreneurs with disabilities in the ILO WEDGE Programme*, Geneva.

–. ILO (2007). *A handbook for small business associations and service providers*, Geneva

–. ILO (2008). *Using the ILO code of practice on HIV/AIDS and the world of work: Guidelines for the construction sector*, Geneva.

–. O'Reilly, A. (2007). *The right to decent work of persons with disabilities*, ILO, Geneva.