

ILO CONVENTION ON GENDER EQUALITY IN THE WORLD OF WORK



International Labour Organization

PREFACE

Women and girls face many problems in access to education and training, in finding jobs, and in their treatment in the workplace. These can result in the denial of basic rights and opportunities to the women concerned – and in the loss to Indonesian society and the economy of the valuable contribution that these women might otherwise make through their work.

We need to identify effective ways of addressing gender issues and promoting gender equality in Indonesia – and the world of work is a key area where efforts should be directed.

The ILO in Indonesia is developing various programs to address gender issues in the world of work. These include youth employment initiatives, work in the field of child labour and migrant workers and in the informal economy, industrial relations and collective bargaining training, encouraging gender sensitive representation and participation in meetings and courses, promoting the principles and implementation of ratified conventions and assisting government, employers and unions to move forward with gender programs.

Gender is a cross-cutting theme in the *Indonesia Tripartite Decent Work Action Plan 2002-2005*. The *Gender Mainstreaming Strategy* of ILO Jakarta seeks to build a greater commitment to the promotion of gender equality in all the work of the ILO and the social partners.

The present publication has been prepared to assist the promotion of gender equality at work. It includes basic information and presentations about key ILO Conventions and Recommendations and the actions taken by Indonesia in ratifying the Conventions.

We hope that the pocket book on “ILO Conventions and Recommendations on Gender Issues in the World of Work” will help to better inform and equip all Indonesians interested in promoting gender equality in the world of work.

September 2006

Alan Boulton

Director, ILO Jakarta Office





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Gender Issues and International Labour Standards

Standard-setting is one of the ILO's major means of action to improve conditions of life and work worldwide. ILO standards are Conventions and Recommendations adopted by the International Labour Conference. To date, there have been 185 Conventions and 195 Recommendations adopted. There have been a total of 7,246 ratifications of these Conventions by member States of the ILO.

Each Convention is a legal instrument regulating aspects of labour administration, social welfare or human rights. Its ratification involves a dual obligation for a member State: it is both a formal commitment to apply the provisions of the Convention, and an indication of willingness to accept a measure of international supervision.

International Labour Recommendations are not open to ratification but lay down general or technical guidelines to be applied at the national level. They often contain detailed guidelines to supplement the principles set out in particular Conventions, or they provide guidance on subjects which are not covered by Conventions.

Both Conventions and Recommendations define standards and provide a model and stimulus for national legislation and practice in member countries.

Indonesia ratified 17 ILO Conventions

(as of 6 April 2004)

Convention		Ratification date	Status
C19	Equality of Treatment (Accident Compensation) Convention, 1925	12:06:1950	ratified
C27	Marking of Weight (Packages Transported by Vessels) Convention, 1929	12:06:1950	ratified
C29	Forced Labour Convention, 1930 *	12:06:1950	ratified
C45	Underground Work (Women) Convention, 1935	12:06:1950	ratified
C69	Certification of Ships' Cooks Convention 1946	30:03:1992	ratified
C81	Labour Inspection Convention, 1947	29:01:2004	ratified
C87	Freedom of Association and Protection of the Right to Organise Convention, 1948 *	09:06:1998	ratified
C88	Employment Service Convention, 1948	08:08:2002	ratified
C98	Right to Organise and Collective Bargaining Convention, 1949 *	15:07:1957	ratified

Convention		Ratificationdate	Status
C100	Equal Remuneration Convention, 1951 *	11:08:1958	ratified
C105	Abolition of Forced Labour Convention, 1957 *	07:06:1999	ratified
C106	Weekly Rest (Commerce and Offices) Convention, 1957	23:08:1972	ratified
C111	Discrimination (Employment and Occupation) Convention, 1958 *	07:06:1999	ratified
C120	Hygiene (Commerce and Offices) Convention, 1964	13:06:1969	ratified
C138	Minimum Age Convention, 1973 *	07:06:1999	ratified
C144	Tripartite Consultation (International Labour Standards) Convention, 1976	17:10:1990	ratified
C182	Worst Forms of Child Labour Convention, 1999 *	28:03:2000	ratified

*** ILO Fundamental Conventions on Human Rights**

(Source: ILOLEX <http://www.ilo.org/ilolex/english/index.htm>)

ILO standards cover a wide range of social and labour problems, including basic human rights issues such as freedom of association, abolition of forced labour, child labour and the elimination of discrimination in employment.

The vast majority of Conventions and Recommendations apply to equally both men and women. However, a number are of special concern to women workers. ILO standards which have become the catalyst for new economic and legal norms affecting working women cover the following areas:

- ◆ equality of remuneration;
- ◆ discrimination in employment and occupation;
- ◆ maternity protection;
- ◆ workers with family responsibilities;
- ◆ special measures relating to night work, underground work and part-time work, and other health-related issues.

The international standards adopted by the ILO in its early years aimed principally at protecting women from exceedingly arduous conditions of work and at safeguarding their reproductive function. The realisation that women also needed to be protected from disadvantages suffered because of their sex resulted in the adoption of instruments during the 1950s which are concerned specifically with eliminating discrimination between men and women workers.

Since the mid 1960s, attention has centered increasingly on promoting equal rights for women and men through the adoption of practices that enable women to achieve their full potential in social and economic development. Important among the standards adopted are those which aim at harmonizing work and family responsibilities, which recognize the joint responsibility of both women and men for the family.

It is evident from the pattern of international labour standards adopted that the scope of application of the principle of equality between women and men has continued to broaden with the realization that equality in one area can only be achieved through attainment of equality, dignity and respect in all aspects of life.

In addition to being legal instruments, international labour standards should be viewed as support tools to further safeguard women's rights to equal opportunity and treatment in working and

social life. Governments, employers and workers' organizations and other civil society organizations are encouraged to ensure women's increasing involvement in national development planning and programmes, in order to further implement the principles contained in ILO standards.

ILO Labour Standards of Relevance to *Equal Opportunity and Treatment*

- ◆ The ILO's standard-setting work in this area is based on **two central concerns**:
 1. To **guarantee equality of opportunity and treatment** in access to **training, employment, promotion, organization and decision-making**, as well as **securing equal conditions of remuneration, benefits, social security and welfare services** provided in connection with employment.
 2. To **protect women workers** especially in relation to terms and conditions of work, occupational safety and health, and in relation to **maternity**.

The four main ILO Conventions that prohibit discrimination on the basis of sex and promote equality are: **the Equal Remuneration Convention, 1951 (No. 100)**, **the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** **the Workers with Family Responsibilities Convention, 1981 (No. 156)** and **the Maternity Protection Convention, 2000 (No. 183)**. The first two of them are ***fundamental*** conventions.

ILO Conventions and Recommendations relating to Equal Employment Opportunity

Convention No. 100 Recommendation No. 90	Equal Remuneration, 1951 Provides for equal remuneration between men and women for work of equal value. Equal Remuneration, 1951 Supplements Convention No. 100
Convention No. 111 Recommendation No. 111	Discrimination (Employment and Occupation), 1958 Prohibits discrimination and Promotes equality of opportunity and treatment in respect of employment and occupation on grounds including sex. Discrimination (Employment and Occupation), 1958 Supplements Convention No. 100
Convention No. 156 Recommendation No. 165	Workers with Family Responsibilities, 1981 Promotes equality of opportunity and treatment for women and men workers with family responsibilities. Workers with Family Responsibilities, 1981 Supplements Convention No. 156
Convention No. 183 Recommendation No. 191	Maternity Protection, 2000 Broadens the scope of coverage to all employed women and extends entitlement to 14 weeks of leave. Maternity Protection, 2000 Supplements Convention No. 183

Summary of the Provisions of Conventions and Recommendations relating to Equal Employment Opportunity

Equal Remuneration Convention, 1951 (No. 100)

- ◆ Equal pay for the work of equal value means a rate of pay fixed without discrimination based on sex
- ◆ Defines remuneration as all payments and emoluments whether in cash or kind
- ◆ Calls for the objective appraisal of jobs on the basis of the content of the work

Equal Remuneration Recommendation, 1951 (No. 90)

- ◆ Recommends that governments ensure that employers and workers are fully informed about the legal requirements
- ◆ The equal remuneration principle can be most appropriately applied by:
 - The establishment of appropriate methods to analyse the work to be done;
 - The provision of equal facilities for both sexes for vocational guidance; and training and for placement to increase the efficiency of women;
 - The provision of welfare and social services to meet women's needs;
 - The promotion of equality of men and women workers in access to jobs;
 - The promotion of public understanding of the principle of equality, and of research and studies in this field.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

- ◆ Promotes equality of opportunity and treatment in employment and occupation
- ◆ Prohibits discrimination in employment and occupation (namely, any distinction, exclusion or preference based on 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 vocational training, access to

employment and to particular jobs or occupations, in terms and conditions and security of employment.

- ◆ Inherent requirements of a job are not considered to be discriminatory
- ◆ Requires adoption of a national policy on equality of opportunity and treatment in employment and occupation.
- ◆ Requires repealing or revising of any laws and changing any administrative instructions or practises, which are not in line with this policy.
- ◆ Provides for consultation by government with workers and employers representatives to promote the objectives of the Convention.

Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111)

- ◆ According to the Recommendation, governments are required to apply a non-discriminatory policy, and no employer, employers' and workers' organization should practise or allow discrimination.

Workers with Family Responsibilities Convention, 1981 (No. 156)

States that:

- ◆ All possible measures should be taken to assist these workers in the exercise of their right to free choice of employment and to take account of their needs in terms and conditions of employment and in social security, and to develop community services such as child care and family services and facilities.
- ◆ Education and information should be provided to ensure broader understanding of the principle of equality of opportunity and treatment for men and women workers with family responsibilities. Specific measures should also be taken in the field of vocational guidance and training.
- ◆ Family responsibilities cannot be a valid reason for dismissal.

Workers with Family Responsibilities Recommendation, 1981 (No. 165)

- ◆ Recommends that special measures be adopted and applied in order to prevent direct or indirect discrimination in employment

and occupation on the basis of marital status of family responsibilities.

- ◆ There are a number of specific recommendations to facilitate access, participation and advancement in employment:
 - The progressive reduction of working hours and the reduction of required overtime
 - The introduction of flexible arrangements in working schedules, rest periods and holidays;
 - The establishment of employment conditions for part-time workers, temporary workers and homeworkers equivalent to those of full-time and permanent workers;

The development of appropriate child-care centres for children of different ages, free of charge or according to the worker's ability to pay;

The development of community services such as public transport and the supply of water and energy in or near the workers' housing;

The encouragement of the sharing of family responsibilities between men and women by introducing paid parental leave after the birth of a child or in case of illness of a dependent child or of another dependent family member.

Maternity Protection Convention, 2000 (No. 183) (Revised)

- ◆ Covers four major elements of maternity protection:
 - Maternity leave
 - Cash and medical benefits
 - Health protection
 - Breastfeeding
- ◆ Extends the period of leave from 12 weeks to a minimum of 14 weeks, with a compulsory leave of six weeks after the birth of child, during which the mother must not be allowed to work.
- ◆ Establishes a right to additional leave in case of illness, complications or risks of complication arising out of pregnancy.
- ◆ Provides that the cash benefit shall be at a level that ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. The

qualifying conditions for cash benefits should be able to be met by a large majority of employed women.

- ◆ Provides for medical benefits, including pre-natal, childbirth and post-natal care as well as hospitalization when necessary.
- ◆ Recognizes the right to health protection to ensure that the pregnant or nursing women is not obliged to perform work prejudicial to her health or that of her child, or where an assessment has established a significant risk to the health of the mother or her child.
- ◆ Provides for women to one or more daily breaks or a reduction of hours of work for breastfeeding.

Maternity Protection Recommendation, 2000 (No. 191)

- ◆ Suggests that the period of leave be at least 18 weeks.
- ◆ Provides for adaptations in the pregnant or breastfeeding women's working conditions in order to reduce particular workplace risks related to the safety.



C100

Equal Remuneration Convention, 1951

CONVENTION CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE

(Note: Date of coming into force: 23:05:1953.)

Convention:	C100
Place:	Geneva
Session of the Conference:	34
Date of adoption:	29:06:1951

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

Article 1

For the purpose of this Convention—

- (a) the term *remuneration* includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever

payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;

- (b) the term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means of—
 - (a) national laws or regulations;
 - (b) legally established or recognised machinery for wage determination;
 - (c) collective agreements between employers and workers; or
 - (d) a combination of these various means.

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.
2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.
3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Article 5

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 7

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate —
 - a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d) the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 8

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may

denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 12

At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—
 - a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the

provisions of Article 9 above, if and when the new revising Convention shall have come into force;

- b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

R90

Equal Remuneration Recommendation, 1951

Recommendation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value

Recommendation:	R090
Place:	Geneva
Session of the Conference:	34
Date of adoption:	29:06:1951

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, supplementing the Equal Remuneration Convention, 1951,

adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one, the following Recommendation, which may be cited as the Equal Remuneration Recommendation, 1951:

Whereas the Equal Remuneration Convention, 1951, lays down certain general principles concerning equal remuneration for men and women workers for work of equal value;

Whereas the Convention provides that the application of the principle of equal remuneration for men and women workers for

work of equal value shall be promoted or ensured by means appropriate to the methods in operation for determining rates of remuneration in the countries concerned;

Whereas it is desirable to indicate certain procedures for the progressive application of the principles laid down in the Convention;

Whereas it is at the same time desirable that all Members should, in applying these principles, have regard to methods of application which have been found satisfactory in certain countries;

The Conference recommends that each Member should, subject to the provisions of Article 2 of the Convention, apply the following provisions and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto:

1. Appropriate action should be taken, after consultation with the workers' organisations concerned or, where such organisations do not exist, with the workers concerned—
 - (a) to ensure the application of the principle of equal remuneration for men and women workers for work of equal value to all employees of central Government departments or agencies; and
 - (b) to encourage the application of the principle to employees of State, provincial or local Government departments or agencies, where these have jurisdiction over rates of remuneration.
2. Appropriate action should be taken, after consultation with the employers' and workers' organisations concerned, to ensure, as rapidly as practicable, the application of the principle of equal remuneration for men and women workers for work of equal value in all occupations, other than those mentioned in Paragraph 1, in which rates of remuneration are subject to statutory regulation or public control, particularly as regards—
 - (a) the establishment of minimum or other wage rates in industries and services where such rates are determined under public authority;
 - (b) industries and undertakings operated under public ownership or control; and
 - (c) where appropriate, work executed under the terms of public contracts.

3. (1) Where appropriate in the light of the methods in operation for the determination of rates of remuneration, provision should be made by legal enactment for the general application of the principle of equal remuneration for men and women workers for work of equal value.
- (2) The competent public authority should take all necessary and appropriate measures to ensure that employers and workers are fully informed as to such legal requirements and, where appropriate, advised on their application.
4. When, after consultation with the organisations of workers and employers concerned, where such exist, it is not deemed feasible to implement immediately the principle of equal remuneration for men and women workers for work of equal value, in respect of employment covered by Paragraph 1, 2 or 3, appropriate provision should be made or caused to be made, as soon as possible, for its progressive application, by such measures as—
 - (a) decreasing the differentials between rates of remuneration for men and rates of remuneration for women for work of equal value;
 - (b) where a system of increments is in force, providing equal increments for men and women workers performing work of equal value.
5. Where appropriate for the purpose of facilitating the determination of rates or remuneration in accordance with the principle of equal remuneration for men and women workers for work of equal value, each Member should, in agreement with the employers' and workers' organisations concerned, establish or encourage the establishment of methods for objective appraisal of the work to be performed, whether by job analysis or by other procedures, with a view to providing a classification of jobs without regard to sex; such methods should be applied in accordance with the provisions of Article 2 of the Convention.
6. In order to facilitate the application of the principle of equal remuneration for men and women workers for work of equal value, appropriate action should be taken, where necessary, to raise the productive efficiency of women workers by such measures as—

- (a) ensuring that workers of both sexes have equal or equivalent facilities for vocational guidance or employment counselling, for vocational training and for placement;
 - (b) taking appropriate measures to encourage women to use facilities for vocational guidance or employment counselling, for vocational training and for placement;
 - (c) providing welfare and social services which meet the needs of women workers, particularly those with family responsibilities, and financing such services from general public funds or from social security or industrial welfare funds financed by payments made in respect of workers without regard to sex; and
 - (d) promoting equality of men and women workers as regards access to occupations and posts without prejudice to the provisions of international regulations and of national laws and regulations concerning the protection of the health and welfare of women.
7. Every effort should be made to promote public understanding of the grounds on which it is considered that the principle of equal remuneration for men and women workers for work of equal value should be implemented.
8. Such investigations as may be desirable to promote the application of the principle should be undertaken.



ACT NO.80 OF 1957

on

THE RATIFICATION OF ILO CONVENTION NO. 100

CONCERNING

EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE

(State Gazette No. 171 of 1957)

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that since 12 July 1950, Indonesia is a member of the International Labour Organisation (ILO);
- b. that ILO Convention No. 100 concerning equal remuneration for men and women workers for work of equal value, which has been adopted by the representatives of the members of the International Labour Organisation in its Thirty-fourth Session in Geneva in 1951 may be ratified.

In view of:

- a. Article 19 of the ILO Constitution;
- b. Articles 89 and 120 of the Provisional Constitution of the Republic of Indonesia, with the approval of the House of Representatives:

RESOLVES

ACT ON THE RATIFICATION OF ILO CONVENTION NO. 100

CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE.

Article 1

ILO Convention No. 100 concerning equal remuneration for men and women workers for work of equal value which has been adopted by the representatives of the members of the International Labour Organisation in its thirty-fourth Session (1951) and which text reads as enclosed to this Act, is herewith ratified.

Article 2

This Act shall come into force on the day of its promulgation. For the information of the general public, orders that this Act be placed in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta
On December 19, 1957

President of the Republic of Indonesia
SOEKARNO

Minister of Labour
SAMIJONO

Minister of Foreign Affairs
SUBANDRIO

Promulgated in Jakarta
On December 31, 1957
Minister of Justice
G.A. MAENGKON



ELUCIDATION ON

THE ACT ON THE RATIFICATION OF ILO
CONVENTION NO. 100

CONCERNING EQUAL REMUNERATION FOR
MEN AND WOMEN WORKERS FOR WORK
OF EQUAL VALUE

(Addendum to State Gazette No. 1492)

In the elucidation of Act on the ratification of ILO Convention No. 98 concerning the application of the principles of the right to organise and to bargain collectively, it is explained, that one of the obligations of Indonesia as a member of the International Labour Organisation, according to Article 19 paragraph (5) of the Organisation's Constitution is to ratify "Convention" which have been adopted by the International Labour Conference and which contents may be or have been already implemented in Indonesia.

According to Article 120 of the Provisional Constitution of the Republic of Indonesia such ratification must be approved by law.

The subject of Convention No. 100 are as follows

- a. country which has ratified this Convention must guarantee equal
 - remuneration for men and women workers for work of equal
 - value;
- b. this guarantee can be applied by collective labour agreements machinery, for wage determination or combination of these various means;

- c. measures must be taken to provide objective appraisal of jobs on the basis of the work to be performed;
- d. differential rate between workers, without regard to sex are based upon the objective appraisal of jobs on the basis of the work to be performed shall not be considered as being contrary to the principles of this Convention.

In our country the principle of equal remuneration for work is guaranteed by Article 28, paragraph (3) of the Provisional Constitution which states that everyone performing work in equal matters, is entitled to equal remuneration and labour contracts of equal value.

In accordance with this principle, discrimination in labour legislation is never established in the case of remuneration on the basis of sex.

Understood:

Minister of Justice

GA. MAENGKOM



C-100

presentation

EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE CONVENTION, 1951

RATIFICATIONS: 141 MEMBER STATES
RATIFIED BY INDONESIA ON 11 AUGUST 1958

AIM OF THE STANDARD

To bring member states to promote the application to all workers of the principle of **equal remuneration** for men and women workers for work of **equal value**

UNIVERSAL COVERAGE

- ♦ Applies to all workers
- ♦ No activities or economic sector are excluded

REMUNERATION

- ♦ Includes the ordinary, basic or minimum wage or salary
- ♦ Any additional emoluments whatsoever (bonuses, allowances)
- ♦ Payable directly or indirectly
- ♦ Whether in cash or kind
- ♦ Arising out of the worker's employment

EQUAL REMUNERATION

Refers to rates of remuneration established without discrimination based on sex

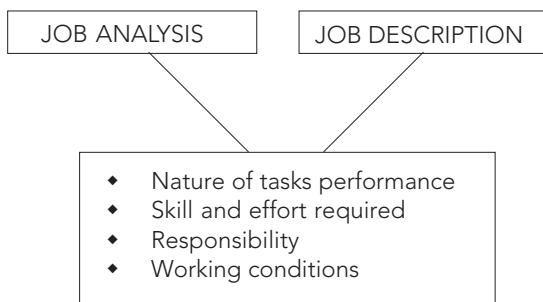
WAYS TO APPLY PRINCIPLE

- ♦ National laws or regulations
- ♦ Legally established or recognized machinery or wage determination
- ♦ Collective agreements

OBJECTIVE APPRAISAL (1)

- ♦ Formal procedure which, through analysing the content of jobs, seeks to hierarchically legally established or recognized machinery for wage determination
- ♦ Collective agreements

OBJECTIVE APPRAISAL (2)



EXCEPTION,

Differential rates between workers which correspond, without regard to sex, to differences, as determined by objective appraisal, in the work to be performed





C111

Discrimination (Employment and Occupation) Convention, 1958

CONVENTION CONCERNING DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

(Note: Date of coming into force: 15:06:1960)

Convention:	C111
Place:	Geneva
Session of the Conference:	42
Date of adoption:	25:06:1958

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, and

Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Considering further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights, adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

Article 1

1. For the purpose of this Convention the term *discrimination* includes—
 - (a) 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;
 - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—

- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

Article 5

- 1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.
- 2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

Article 6

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
 - b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

R111

Discrimination (Employment and Occupation) Recommendation, 1958

RECOMMENDATION CONCERNING DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

Recommendation:	R111
Place:	Geneva
Session of the Conference:	42
Date of adoption:	25:06:1958

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Discrimination (Employment and Occupation) Convention, 1958, adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Discrimination (Employment and Occupation) Recommendation, 1958:

The Conference recommends that each Member should apply the following provisions:

I. Definitions

1. (1) For the purpose of this Recommendation the term *discrimination* includes—
 - (a) 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;
 - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
- (2) Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof is not deemed to be discrimination. (3) For the purpose of this Recommendation the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

II. Formulation and Application of Policy

2. Each Member should formulate a national policy for the prevention of discrimination in employment and occupation. This policy should be applied by means of legislative measures, collective agreements between representative employers' and workers' organisations or in any other manner consistent with national conditions and practice, and should have regard to the following principles:
 - (a) the promotion of equality of opportunity and treatment in employment and occupation is a matter of public concern;
 - (b) all persons should, without discrimination, enjoy equality of opportunity and treatment in respect of—
 - (i) access to vocational guidance and placement services;
 - (ii) access to training and employment of their own choice on the basis of individual suitability for such training or employment;

- (iii) advancement in accordance with their individual character, experience, ability and diligence;
 - (iv) security of tenure of employment;
 - (v) remuneration for work of equal value;
 - (vi) conditions of work including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
 - (c) government agencies should apply non-discriminatory employment policies in all their activities;
 - (d) employers should not practise or countenance discrimination in engaging or training any person for employment, in advancing or retaining such person in employment, or in fixing terms and conditions of employment; nor should any person or organisation obstruct or interfere, either directly or indirectly, with employers in pursuing this principle;
 - (e) in collective negotiations and industrial relations the parties should respect the principle of equality of opportunity and treatment in employment and occupation, and should ensure that collective agreements contain no provisions of a discriminatory character in respect of access to, training for, advancement in or retention of employment or in respect of the terms and conditions of employment;
 - (f) employers' and workers' organisations should not practise or countenance discrimination in respect of admission, retention of membership or participation in their affairs.
3. Each Member should—
- (a) ensure application of the principles of non-discrimination—
 - (i) in respect of employment under the direct control of a national authority;
 - (ii) in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
 - (b) promote their observance, where practicable and necessary, in respect of other employment and other vocational guidance, vocational training and placement services by such methods as—
 - (i) encouraging state, provincial or local government departments or agencies and industries and

- undertakings operated under public ownership or control to ensure the application of the principles;
 - (ii) making eligibility for contracts involving the expenditure of public funds dependent on observance of the principles;
 - (iii) making eligibility for grants to training establishments and for a licence to operate a private employment agency or a private vocational guidance office dependent on observance of the principles.
4. Appropriate agencies, to be assisted where practicable by advisory committees composed of representatives of employers' and workers' organisations, where such exist, and of other interested bodies, should be established for the purpose of promoting application of the policy in all fields of public and private employment, and in particular—
- (a) to take all practicable measures to foster public understanding and acceptance of the principles of non-discrimination;
 - (b) to receive, examine and investigate complaints that the policy is not being observed and, if necessary by conciliation, to secure the correction of any practices regarded as in conflict with the policy; and
 - (c) to consider further any complaints which cannot be effectively settled by conciliation and to render opinions or issue decisions concerning the manner in which discriminatory practices revealed should be corrected.
5. Each Member should repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy.
6. Application of the policy should not adversely affect special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are generally recognised to require special protection or assistance.
7. Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State should not be deemed to be discrimination, provided that the individual concerned has the right to appeal to a competent body established in accordance with national practice.

8. With respect to immigrant workers of foreign nationality and the members of their families, regard should be had to the provisions of the Migration for Employment Convention (Revised), 1949, relating to equality of treatment and the provisions of the Migration for Employment Recommendation (Revised), 1949, relating to the lifting of restrictions on access to employment.
9. There should be continuing co-operation between the competent authorities, representatives of employers and workers and appropriate bodies to consider what further positive measures may be necessary in the light of national conditions to put the principles of non-discrimination into effect.

III. Co-ordination of Measures for the Prevention of Discrimination in All Fields

10. The authorities responsible for action against discrimination in employment and occupation should co-operate closely and continuously with the authorities responsible for action against discrimination in other fields in order that measures taken in all fields may be co-ordinated.





Law of the Republic of Indonesia Number 21 of the Year 1999

CONCERNING THE RATIFICATION OF THE ILO CONVENTION NO. 111 CONCERNING DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION

With the Grace of God (The One and Only God),

The President of the Republic of Indonesia,

Considering:

- a. That the State of the Republic of Indonesia, based on the Pancasila State Ideology and the 1945 Constitution, is a state based on the rule of law. It upholds human dignity and values. It ensures that every citizen is equal in the eyes of the law. Hence, any forms of discrimination to workers on grounds of race, color, sex, religion, political orientation, nationality or creed must be abolished.
- b. That Indonesians as a nation and part of the international community honors, respects and upholds the principles and the objectives of the Charter of the United Nations, the 1948 Universal Declaration of Human Rights, Declaration of

Philadelphia of the Year 1944 and Constitution of the International Labor Organization.

- c. That the Conference of the International Labor Organization in its forty-two meeting on June 25, 1958 has adopted the ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation.
- d. That the determination of the Convention accords with the will of the Indonesian people who continuously seek to uphold and promote the implementation of fundamental rights of workers in the life of the State and the Nation.
- e. That based on considerations mentioned in points a, b, c and d, it is deemed necessary to ratify the ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation.

In view of:

- 1. Article 5 Paragraph (1), Article 11, Article 20 Paragraph (1) and Article 27 of the 1945 Constitution.
- 2. The Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVII/MPR/1998 concerning Human Rights.

With the approval of

The House of Representatives of the Republic of Indonesia

Decides:

To Stipulate:

The Law concerning the ratification of the ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation.

Article 1

Ratifies the ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation whose original document



is in English and whose translation in Indonesian has been made available as appended here and is an inseparable part of this law.

Article 2

This law starts to take effect on the date it is promulgated.

For the information of the general public, orders that this law be placed in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta on May 7, 1999

President of the Republic of Indonesia
Bacharuddin Jusuf Habibie

Promulgated in Jakarta on May 7, 1999

State Minister/ State Secretary
Republic of Indonesia
Akbar Tanjung

Supplement Number 57 of the Year 1999 to the State Gazette of the Republic of Indonesia

The copy accords with the original

The Secretariat of the Cabinet of the Republic of Indonesia
The Head of the First Bureau in charge of legislative rules and regulations

Lambock V. Nahattands



Explanatory Notes on

The Law of the Republic of Indonesia Number 21 of the Year 1999

Concerning the Ratification of the ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation

1. General

Human beings as a creation of God are endowed with human rights. These rights are inherent in every human being right from birth. No other human beings or parties can seize these rights. Human rights are universally acknowledged as stated in the United Nations Charter, the 1948 Universal Declaration of Human Rights, the 1944 International Labor Organization (ILO) Declaration of Philadelphia and the ILO Constitution. Hence, every country in the world is morally demanded that they respect, uphold and protect these rights. One aspect of human rights concerns equal opportunity and equal treatment with respect to employment and occupation. This equity accords with the Moral Principles of the Pancasila State Ideology and has been foreshadowed within Article 27 of the 1945 Constitution. The determination concerning this equity have also been stipulated in the Decree of the People's Consultative Assembly of the Republic of Indonesia Number XVII/MPR/1998 concerning Human Rights and in other legislative rules and regulations.

As a Member of the United Nations and the International Labor Organization (ILO), Indonesia respects, upholds and makes efforts to implement decisions made by these two international bodies. The ILO Convention Number 111 concerning Discrimination in respect of Employment and Occupation was adopted at the forty-second International Labor Conference on June 25, 1958 in Geneva, which is part of the protection of workers' rights. This Convention obliges every ILO Member which has ratified it to eradicate any forms of discrimination in respect of employment and occupation made on the basis of race, color, sex, religion, political view/ orientation, national extraction or creed.

II. Underlying Ideas That Have Given Birth to the ILO Convention No. 111

1. The ILO Convention No. 100 of the Year 1951 concerning equal remuneration for female and male workers demands that every country should guarantee the implementation of the equal remuneration principle for female and male workers for work of the same value.
2. Facts have shown that discriminatory practices that have happened concern not only remuneration for female and male workers, but also treatment and opportunity in respect of employment and occupation. Therefore it was deemed necessary to prepare and ratify a Convention which specifically prohibits discrimination in respect of employment and occupation made on the basis of race, color, sex, religion, political orientation, national extraction or creed.

III. Reasons Why Indonesia Needs To Ratify This Convention

1. The Pancasila is the philosophy of the nation and is the way through which Indonesians as a nation sees life. The 1945 Constitution is the source of and the basis for national laws. Both Pancasila and the 1945 Constitution uphold human dignity and values as reflected in one of the [Five] Moral Principles of Pancasila which advocates humanity that is just and civilized. Therefore, Indonesians as a nation pledges to prevent and prohibit any forms of discrimination in respect of employment and occupation, which agrees with the determination of this Convention.

2. In order to practice the Moral Principles contained in the Pancasila and to implement the 1945 Constitution, Indonesia has established legislation that directly prevents and prohibits any forms of discrimination, including discrimination in respect of employment and occupation.
3. The People's Consultative Assembly of the Republic of Indonesia through its Decree Number XVII/MPR/1998 concerning Human Rights appoints the President and the House of Representatives to ratify various instruments of the United Nations which concern human rights. Indonesia has ratified the United Nations Convention of December 18, 1979 concerning the Abolition of All Forms of Discrimination against Women by issuing Law No. 7 of the year 1984. In addition, the President of the Republic of Indonesia co-signed the decisions of the Social Development Summit in Copenhagen in 1995. One of the decisions of the summit pushes United Nations Members to ratify the seven ILO Core Conventions that advocate workers' rights, including the ILO Convention No. 111 of the year 1985 concerning Discrimination in respect of Employment and Occupation.
4. The International Labor Organization in its 86th General Conference in Geneva in June 1998 has agreed the adoption of the ILO Declaration concerning the fundamental principles and rights at work. The declaration states that every country is under obligation to respect and realize the principles contained in the seven Core Conventions of the ILO.
5. In the implementation of the Pancasila and of legislative rules and regulations, violations in respect of the protection of workers' rights are still felt. Therefore, the ratification of this Convention is aimed at enhancing legal protection effectively which in turn will guarantee more protection to workers' rights from any forms of discrimination in respect of employment and occupation.
6. The ratification of this Convention demonstrates the seriousness of Indonesia in furthering and protecting workers' rights, particularly the right to have equal opportunity and treatment in respect of employment and occupation. This will enhance the positive image of Indonesia and strengthen the confidence of international community in Indonesia.

IV. The Fundamentals of the Convention

1. The ILO Member Countries that ratify this Convention are under obligation to prohibit any forms of discrimination in respect of employment and occupation, including access to training and skills made on the basis of race, color, sex, religion, political orientation, national extraction or creed.
2. The ILO Member Countries that ratify this Convention are under obligation to take cooperative steps in order to improve the implementation of and adherence to this Convention with regard to legislative rules and regulations, administration, policy adjustments, control, education and training.
3. The ILO Member Countries that ratify this Convention are under obligation to report its implementation.

V. Article by Article

Article One

Should differences in the interpretation of the Indonesian translation of this Convention arise, the authentic English text of the Convention applies.

Article Two

Sufficiently clear

Supplement to the State Gazette of the Republic of Indonesia
Number 3836



C-111

presentation

DISCRIMINATION (EMPLOYMENT AND OCCUPATION CONVENTION, 1958)

RATIFICATIONS: 138 MEMBER STATES
RATIFIED BY INDONESIA ON 7 JULY 1999

AIM OF THE STANDARD

To bring member states to declare and pursue a policy to promote, by methods appropriate to national conditions, equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination in respect of employment and occupation

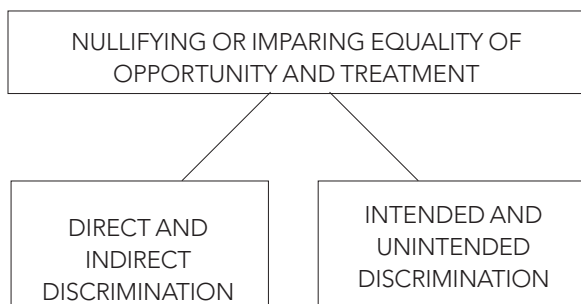
DISCRIMINATION

- ♦ Any distinction, exclusion or preference based on 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
- ♦ Any other ground of discrimination with the same effect, established after tripartite consultation (for example, age)

UNIVERSAL COVERAGE

- ♦ Including self-employed workers
- ♦ Including non-nationals amongst themselves)
- ♦ Excluding discrimination between nationals and non-nationals

EFFECT



INDIRECT DISCRIMINATION

- ♦ Distinctions on the basis of seemingly objective criteria which in practice disproportionately affect some persons, while not being related to the inherent requirements of the job

For example, distinctions on the basis of certain physiological features, such as height, which only workers of one sex will be able to fulfill

UNINTENDED DISCRIMINATION

For example: the exclusion of export processing zone
from the ambit of labour law

Aim: export promotion or attracting foreign
investment

Possible result: unintended discrimination on the basis
of sex or age if workers in these zones are
predominately female and young

EMPLOYMENT OR OCCUPATION

EMPLOYMENT OR OCCUPATION

- ♦ access to employment
- ♦ access to vocational guidance and placement
- ♦ advancement according to experience
- ♦ security of tenure
- ♦ conditions of employment
- ♦ including, equal remuneration for work of equal value

EXCEPTIONS [1]

- ♦ Distinctions based on the inherent requirements of the job
- ♦ Objective differentiation based on genuine needs of a job

Examples: political opinion for certain senior administrative posts, religious belief for ministers, sex based on considerations of authenticity, aesthetics or tradition of artistic performances

EXCEPTIONS [2]

- ♦ Individuals who are justifiably suspected of, or engaged in, activities prejudicial to the security of the state
- ♦ Provided they have a right of appeal to a competent body
- ♦ Membership of a group of which the doctrines are aimed at fundamental but peaceful changes is not sufficient

EXCEPTIONS [3]

- ♦ Special protective measures provided for in other ILO instruments, for instance, maternity protection against night work
- ♦ Positive action to re-establish a balance

POSITIVE ACTION

Temporary, specific measures designed to eliminate the current direct and indirect consequences of past discrimination in order to establish de facto equality of opportunity

POSITIVE ACTION CAN INCLUDE

POSITIVE ACTION CAN INCLUDE

CORRECTIVE
ACTIONS
(SETTING TARGETS
FOR WOMEN'S
PARTICIPATION)

PROMOTIONAL
MEASURES TO GIVE
WOMEN ACCESS TO
WIDER OPPORTUNITES
(EDUCATION,
VOCATIONAL
TRAINING, NON-
TRADITIONAL
SECTORS)



C156

Workers with Family Responsibilities Convention, 1981

CONVENTION CONCERNING EQUAL OPPORTUNITIES AND EQUAL TREATMENT FOR MEN AND WOMEN WORKERS: WORKERS WITH FAMILY RESPONSIBILITIES

(Note: Date of coming into force: 11:08:1983)

Convention:	C156
Place:	Geneva
Session of the Conference:	67
Date of adoption:	23:06:1981

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-seventh Session on 3 June 1981, and

Noting the Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organisation which recognises that "all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity", and

Noting the terms of the Declaration on Equality of Opportunity and Treatment for Women Workers and of the resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, adopted by the International Labour Conference in 1975, and

Noting the provisions of international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, namely the Equal

Remuneration Convention and Recommendation, 1951, the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and Part VIII of the Human Resources Development Recommendation, 1975, and

Recalling that the Discrimination (Employment and Occupation) Convention, 1958, does not expressly cover distinctions made on the basis of family responsibilities, and considering that supplementary standards are necessary in this respect, and

Noting the terms of the Employment (Women with Family Responsibilities) Recommendation, 1965, and considering the changes which have taken place since its adoption, and

Noting that instruments on equality of opportunity and treatment for men and women have also been adopted by the United Nations and other specialised agencies, and recalling, in particular, the fourteenth paragraph of the Preamble of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, to the effect that States Parties are "aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women", and

Recognising that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies, and

Recognising the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, and

Considering that many of the problems facing all workers are aggravated in the case of workers with family responsibilities and recognising the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general, and

Having decided upon the adoption of certain proposals with regard to equal opportunities and equal treatment for men and women workers: workers with family responsibilities, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-third day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Workers with Family Responsibilities Convention, 1981:

Article 1

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
3. For the purposes of this Convention, the terms dependent child and other member of the immediate family who clearly needs care or support mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention.
4. The workers covered by virtue of paragraphs 1 and 2 of this Article are hereinafter referred to as *workers with family responsibilities*.

Article 2

This Convention applies to all branches of economic activity and all categories of workers.

Article 3

1. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

2. For the purposes of paragraph 1 of this Article, the term *discrimination* means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

Article 4

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken—

- (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) to take account of their needs in terms and conditions of employment and in social security.

Article 5

All measures compatible with national conditions and possibilities shall further be taken—

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

Article 6

The competent authorities and bodies in each country shall take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

Article 7

All measures compatible with national conditions and possibilities, including measures in the field of vocational guidance and training, shall be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

Article 8

Family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Article 9

The provisions of this Convention may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.

Article 10

1. The provisions of this Convention may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken shall apply in any case to all the workers covered by Article 1, paragraph 1.
2. Each Member which ratifies this Convention shall indicate in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation in what respect, if any, it intends to make use of the faculty given by paragraph 1 of this Article, and shall state in subsequent reports the extent to which effect has been given or is proposed to be given to the Convention in that respect.

Article 11

Employers' and workers' organisations shall have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Convention.

Article 12

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 13

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 14

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 15

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 16

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 17

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 18

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 14 above, if and when the new revising Convention shall have come into force;
 - b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 19

The English and French versions of the text of this Convention are equally authoritative.



R165

Workers with Family Responsibilities Recommendation, 1981

RECOMMENDATION CONCERNING EQUAL OPPORTUNITIES AND EQUAL TREATMENT FOR MEN AND WOMEN WORKERS: WORKERS WITH FAMILY RESPONSIBILITIES

Recommendation:	R165
Place:	Geneva
Session of the Conference:	67
Date of adoption:	23:06:1981

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-seventh Session on 3 June 1981, and

Noting the Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organisation which recognises that all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Noting the terms of the Declaration on Equality of Opportunity and Treatment for Women Workers and of the resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, adopted by the International Labour Conference in 1975, and

Noting the provisions of international labour Conventions and Recommendations aimed at ensuring equality of opportunity and

treatment for men and women workers, namely the Equal Remuneration Convention and Recommendation, 1951, the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and Part VIII of the Human Resources Development Recommendation, 1975, and

Recalling that the Discrimination (Employment and Occupation) Convention, 1958, does not expressly cover distinctions made on the basis of family responsibilities, and considering that supplementary standards are necessary in this respect, and

Noting the terms of the Employment (Women with Family Responsibilities) Recommendation, 1965, and considering the changes which have taken place since its adoption, and

Noting that instruments on equality of opportunity and treatment for men and women have also been adopted by the United Nations and other specialised agencies, and recalling, in particular, the fourteenth paragraph of the Preamble of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, to the effect that States Parties are aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women, and

Recognising that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies, and

Recognising the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, and

Considering that many of the problems facing all workers are aggravated in the case of workers with family responsibilities and recognising the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general, and

Having decided upon the adoption of certain proposals with regard to equal opportunities and equal treatment for men and women workers: workers with family responsibilities, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-third day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Workers with Family Responsibilities Recommendation, 1981:

I. Definition, Scope and Means of Implementation

1. (1) This Recommendation applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
(2) The provision of this Recommendation should also be applied to men and women workers with responsibilities in relation to other members of their immediate family who need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating or advancing in economic activity.
(3) For the purposes of this Recommendation, the terms *dependent child* and *other member of the immediate family who needs care or support* mean persons defined as such in each country by one of the means referred to in Paragraph 3 of this Recommendation.
(4) The workers covered by virtue of subparagraphs (1) and (2) of this Paragraph are hereinafter referred to as workers with family responsibilities.
2. This Recommendation applies to all branches of economic activity and all categories of workers.
3. The provisions of this Recommendation may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.
4. The provisions of this Recommendation may be applied by stages if necessary, account being taken of national conditions:

Provided that such measures of implementation as are taken should apply in any case to all the workers covered by Paragraph 1, sub-paragraph (1).

5. Employers' and workers' organisations should have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Recommendation.

II. National Policy

6. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member should make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
7. Within the framework of a national policy to promote equality of opportunity and treatment for men and women workers, measures should be adopted and applied with a view to preventing direct or indirect discrimination on the basis of marital status or family responsibilities.
8.
 - (1) For the purposes of Paragraphs 6 and 7 above, the term *discrimination* means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.
 - (2) During a transitional period special measures aimed at achieving effective equality between men and women workers should not be regarded as discriminatory.
9. With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities should be taken—
 - (a) to enable workers with family responsibilities to exercise their right to vocational training and to free choice of employment;
 - (b) to take account of their needs in terms and conditions of employment and in social security; and

- (c) to develop or promote child-care, family and other community services, public or private, responding to their needs.
10. The competent authorities and bodies in each country should take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.
 11. The competent authorities and bodies in each country should take appropriate measures—
 - (a) to undertake or promote such research as may be necessary into the various aspects of the employment of workers with family responsibilities with a view to providing objective information on which sound policies and measures may be based; and
 - (b) to promote such education as will encourage the sharing of family responsibilities between men and women and enable workers with family responsibilities better to meet their employment and family responsibilities.

III. Training and Employment

12. All measures compatible with national conditions and possibilities should be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.
13. In accordance with national policy and practice, vocational training facilities and, where possible, paid educational leave arrangements to use such facilities should be made available to workers with family responsibilities.
14. Such services as may be necessary to enable workers with family responsibilities to enter or re-enter employment should be available, within the framework of existing services for all workers or, in default thereof, along lines appropriate to national conditions; they should include, free of charge to the workers, vocational guidance, counselling, information and placement

services which are staffed by suitably trained personnel and are able to respond adequately to the special needs of workers with family responsibilities.

15. Workers with family responsibilities should enjoy equality of opportunity and treatment with other workers in relation to preparation for employment, access to employment, advancement within employment and employment security.
16. Marital status, family situation or family responsibilities should not, as such, constitute valid reasons for refusal or termination of employment.

IV. Terms and Conditions of Employment

17. All measures compatible with national conditions and possibilities and with the legitimate interests of other workers should be taken to ensure that terms and conditions of employment are such as to enable workers with family responsibilities to reconcile their employment and family responsibilities.
18. Particular attention should be given to general measures for improving working conditions and the quality of working life, including measures aiming at—
 - (a) the progressive reduction of daily hours of work and the reduction of overtime, and
 - (b) more flexible arrangements as regards working schedules, rest periods and holidays, account being taken of the stage of development and the particular needs of the country and of different sectors of activity.
19. Whenever practicable and appropriate, the special needs of workers, including those arising from family responsibilities, should be taken into account in shift-work arrangements and assignments to night work.
20. Family responsibilities and considerations such as the place of employment of the spouse and the possibilities of educating children should be taken into account when transferring workers from one locality to another.
21. (1) With a view to protecting part-time workers, temporary workers and homeworkers, many of whom have family responsibilities, the terms and conditions on which these

types of employment are performed should be adequately regulated and supervised.

- (2) The terms and conditions of employment, including social security coverage, of part-time workers and temporary workers should be, to the extent possible, equivalent to those of full-time and permanent workers respectively; in appropriate cases, their entitlement may be calculated on a pro rata basis. (3) Part-time workers should be given the option to obtain or return to full-time employment when a vacancy exists and when the circumstances which determined assignment to part-time employment no longer exist.
- 22. (1) Either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded.
 - (2) The length of the period following maternity leave and the duration and conditions of the leave of absence referred to in subparagraph (1) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.
 - (3) The leave of absence referred to in subparagraph (1) of this Paragraph may be introduced gradually.
- 23. (1) It should be possible for a worker, man or woman, with family responsibilities in relation to a dependent child to obtain leave of absence in the case of its illness.
 - (2) It should be possible for a worker with family responsibilities to obtain leave of absence in the case of the illness of another member of the worker's immediate family who needs that worker's care or support.
 - (3) The duration and conditions of the leave of absence referred to in subparagraphs (1) and (2) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.

V. Child-care and Family Services and Facilities

- 24. With a view to determining the scope and character of the child-care and family services and facilities needed to assist workers with family responsibilities to meet their employment

and family responsibilities, the competent authorities should, in co-operation with the public and private organisations concerned, in particular employers' and workers' organisations, and within the scope of their resources for collecting information, take such measures as may be necessary and appropriate—

- (a) to collect and publish adequate statistics on the number of workers with family responsibilities engaged in or seeking employment and on the number and age of their children and of other dependants requiring care; and
- (b) to ascertain, through systematic surveys conducted more particularly in local communities, the needs and preferences for child-care and family services and facilities.

25. The competent authorities should, in co-operation with the public and private organisations concerned, take appropriate steps to ensure that child-care and family services and facilities meet the needs and preferences so revealed; to this end they should, taking account of national and local circumstances and possibilities, in particular—

- (a) encourage and facilitate the establishment, particularly in local communities, of plans for the systematic development of child-care and family services and facilities, and
- (b) themselves organise or encourage and facilitate the provision of adequate and appropriate child-care and family services and facilities, free of charge or at a reasonable charge in accordance with the workers' ability to pay, developed along flexible lines and meeting the needs of children of different ages, of other dependants requiring care and of workers with family responsibilities.

26. (1) Child-care and family services and facilities of all types should comply with standards laid down and supervised by the competent authorities.

- (2) Such standards should prescribe in particular the equipment and hygienic and technical requirements of the services and facilities provided and the number and qualifications of the staff.
- (3) The competent authorities should provide or help to ensure the provision of adequate training at various levels for the personnel needed to staff child-care and family services and facilities.

VI. Social Security

27. Social security benefits, tax relief, or other appropriate measures consistent with national policy should, when necessary, be available to workers with family responsibilities.
28. During the leave of absence referred to in Paragraphs 22 and 23, the workers concerned may, in conformity with national conditions and practice, and by one of the means referred to in Paragraph 3 of this Recommendation, be protected by social security.
29. A worker should not be excluded from social security coverage by reference to the occupational activity of his or her spouse and entitlement to benefits arising from that activity.
30. (1) The family responsibilities of a worker should be an element to be taken into account in determining whether employment offered is suitable in the sense that refusal of the offer may lead to loss or suspension of unemployment benefit.
(2) In particular, where the employment offered involves moving to another locality, the considerations to be taken into account should include the place of employment of the spouse and the possibilities of educating children.
31. In applying Paragraphs 27 to 30 of this Recommendation, a Member whose economy is insufficiently developed may take account of the national resources and social security arrangements available.

VII. Help in Exercise of Family Responsibilities

32. The competent authorities and bodies in each country should promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers.
33. All measures compatible with national conditions and possibilities should be taken to develop home-help and home-care services which are adequately regulated and supervised and which can provide workers with family responsibilities, as necessary, with qualified assistance at a reasonable charge in accordance with their ability to pay.

34. Since many measures designed to improve the conditions of workers in general can have a favourable impact on those of workers with family responsibilities, the competent authorities and bodies in each country should promote such public and private action as is possible to make the provision of services in the community, such as public transport, supply of water and energy in or near workers' housing and housing with labour-saving layout, responsive to the needs of workers.

VIII. Effect on Existing Recommendations

35. This Recommendation supersedes the Employment (Women with Family Responsibilities)

C-156

presentation

With a view to creating effective equality of opportunity and treatment, members shall

Make it an aim of national policy to enable workers with family responsibilities to engage in employment without discrimination and, to the extent possible, without conflict between their work and family responsibilities.

OBJECTIVES

Establish equality of opportunity and treatment

- between men and women workers with family responsibilities
- between workers with family responsibilities and other workers that do not have such responsibilities

WHAT ARE FAMILY RESPONSIBILITIES?

- responsibilities in relation to “dependent children” and “other members of the immediate family”
- up to each country to define family
- domestic work

REMOVING RESTRICTIONS

Where such responsibilities restrict their possibilities for:

- preparing for
- entering
- participating
- advancing in economic activities

NATIONAL POLICY

Take all measures compatible with national conditions and possibilities to :

- Enable these workers to freely choose their employment
- Take account of their needs in terms and conditions of work and social security
- Take account of their needs in community planning and in the development of public and private community services

OTHER REQUIREMENTS

- Organize vocational guidance and training to enable re-entry and stay in the labour force.
- Promote information and education to generate broader public awareness.
- Ensure that family responsibilities cannot constitute a valid reason for termination of employment.

SOCIAL PARTNERS

Employer's and workers' organizations shall have the right to participate in any manner appropriate to the national conditions, in devising and applying the measures taken

PROGRESSIVE APPLICATION

- Allows for an application by stages if necessary taking into account national conditions
- Any measures taken shall apply in any case to all workers with family responsibilities

MEASURES TO PROMOTE WORK-FAMILY RECONCILIATION

- **Family services** – child care, elder care, services to reduce domestic tasks
- **Leave** – maternity leave, paternity leave, parental leave, emergency family leave, retraining/reintegration
- **Working time** – duration, part-time, flexitime, predictability
- **Promotion awareness**

MAKING FAMILY RESPONSIBILITIES MORE COMPATIBLE WITH WORK

All measures shall be taken to develop or promote community services, public or private such as childcare and family services and facilities (Convention 156, Article 5(b)).

"Childcare is crucially important for women to achieve true equality of opportunity"

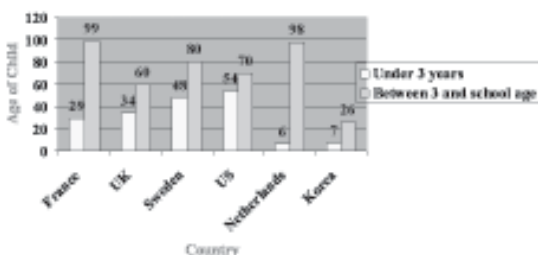
Equal Opportunities Commission, Britain

LOOKING AFTER THE UNDER-SCHOOL AGE CHILD

Types of formal child-care:

- Paid care in home - nanny
- Group care in center – crèches, nurseries, run by individuals, groups, local communities for profit or non-profit basis
- Paid and licensed childminders (day mothers) based in their own home (e.g. France, Peru, Singapore)

USE OF FORMAL CHILD-CARE: PROPORTION OF YOUNG CHILDREN IN FORMAL CHILD-CARE



GOVERNMENT POLICIES ON CARE FOR CHILDREN UNDER 3

- Encourage parent care at home
- Variable public funding for day care
 - FROM about 1/3 of cost in Sweden and Norway (mainly through subsidies to municipalities)
 - TO very little (most facilities run by voluntary groups, private companies or employers)
- Problems of accessibility for low-income
- Problems of quality and cost

SCHOOL AGE CHILDREN

- To compensate for fact that school hours are shorter than working hours:
 - Canteen for lunch
 - After-school care (at child-minders or supervised activities at school)
 - Employer initiatives
- Vacation programmes (day camp, holiday camp)

LIGHTENING THE LOAD

- *The competent authorities and bodies in each country should promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers.*(Recommendation 165, paragraph 32)

LEAVE PROVISIONS

- *Maternity Leave* – for childbirth
- *Paternity leave* – leave for fathers at childbirth
3 days in Algeria; 2 in Argentina; 10 in Sweden;
5 days at ILO
- *Parental leave* – provision for extended leave (often after maternity leave) for caring for young child, often unpaid or low pay
 - *Fathers and mothers*
 - *Most effective when there is flexibility: part-time*
 - *Take up rates tend to be high among women*
 - *Use it or lose it for men*

EMERGENCY FAMILY LEAVE (I.E. SICK CHILD)

- Certain number of days may be allowed by legislation (emergency leave, family events)
- may be enterprise policy – may allow leave for emergencies, sometimes as part of sick leave or with time to be made up later

MAKING “NORMAL” WORK MORE FAMILY COMPATIBLE

Particular attention should be given to **general measures** for improving working conditions and the quality of life, including measures aimed at

- (a) the progressive reduction of daily hours of work and the reduction of overtime;
- (b) more flexible arrangements as concerns working schedules, rest periods and holidays.

Recommendation 165 on Workers with Family Responsibilities. Article 18

FAMILY-UNFRIENDLY WORKING HOURS:

Problems of legal limits and actual hours

- Negative impacts on workers' health: More than 48 hours per week may be a significant stressor
- Negative impacts on family life
- May intensify gender division of labour

Frequent "forced" overtime should be avoided

Problems of overtime payment not being made

Importance of knowing ahead

FLEXI-TIME

Flexi-time allows workers to schedule their own hours of work within specified limits.

- Two types of flexi-time
 - **Formal flexi-time:** workers can change daily working hours, provided that they are working "core-hours"
 - **Informal flexi-time:** workers can vary start and finishing time (e.g. within thirty minutes)

FLEXI-TIME – FORMAL PROGRAMME

Normally combined with "time bank"

- Credit and deficit hours
- Credit hours can be taken as time-off
- Popular among white-collar workers
- Technical difficulties in introducing it for blue-collar workers

Growing use of this scheme

- More than 30% of workers are under this scheme in Germany
- Around 10 % in the UK, the US and Japan

PART-TIME WORK

- Increasingly popular for combining work and family
 - 18% of workers in EU in 2000
 - 41% in the Netherlands (“the first part-time country in the world”)
- However, concerns are expressed about:
 - Discrimination in wages, career developments, social protection, etc.
 - The feminization of part-time work: More than 70% of part-time work is taken by women
 - Reinforcing gender inequality in domestic work?

Promoting high-quality part-time work

WORKPLACE IS WHERE MAIN WORK/FAMILY RECONCILIATION TAKES PLACE

- Concept of family-friendly enterprise
 - accepts that such responsibilities can impact on employees’ working life
 - tries to facilitate reconciliation
- Create “win-win” situation achieving **both** organizational effectiveness *and* employee well-being
- Trade Unions can have major role
 - In negotiating agreements/collective bargaining
 - In informing on rights and identifying needs

INFORMATION AND EDUCATION

- For broader public understanding of:
 - principle of equality
 - problems of workers with family responsibilities
 - create climate conducive to overcoming problems*(Convention 156 Article 6)*
- To promote such education as will encourage the sharing of family responsibilities between men and women *(Recommendation 165, paragraph 11(b))*
- For employers: To encourage enterprise policies – awards, manuals, case studies
 - In some countries enterprise awards - Australia, Hungary, Singapore

RECONCILIATION TO PROMOTE EQUALITY

- Making “normal” work more family compatible (hours, flexibility)
- Adequate regulation and supervision of part-time and home work
- Making family responsibilities more compatible with work (care facilities, school hours etc.)
- Lightening the load
- Recognizing men’s caring role and more equal sharing of family responsibilities



C183

Maternity Protection Convention, 2000

CONVENTION CONCERNING THE REVISION OF THE MATERNITY PROTECTION CONVENTION (REVISED), 1952

(Note: Date of coming into force:07:02:2002)

Convention:	C183
Place:	Geneva
Session of the Conference:	88
Date of adoption:	15:06:2000

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and

Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognize the diversity in economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice, and

Noting the provisions of the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), the United Nations Convention on the Rights of the Child (1989), the Beijing Declaration and Platform for Action (1995), the International Labour Organization's Declaration on Equality of Opportunity and Treatment for Women Workers (1975), the International Labour Organization's

Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as the international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, in particular the Convention concerning Workers with Family Responsibilities, 1981, and

Taking into account the circumstances of women workers and the need to provide protection for pregnancy, which are the shared responsibility of government and society, and

Having decided upon the adoption of certain proposals with regard to the revision of the Maternity Protection Convention (Revised), 1952, and Recommendation, 1952, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this fifteenth day of June of the year two thousand the following Convention, which may be cited as the Maternity Protection Convention, 2000.

SCOPE

Article 1

For the purposes of this Convention, the term *woman* applies to any female person without discrimination whatsoever and the term *child* applies to any child without discrimination whatsoever.

Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.
2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.
3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the

application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

HEALTH PROTECTION

Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

MATERNITY LEAVE

Article 4

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.
2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.
3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.
4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth

and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

BENEFITS

Article 6

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.
2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.
3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.
4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.
5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.
6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.
8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:
 - (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
 - (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

Article 7

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.
2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

Article 8

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or

regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.

2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Article 9

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 - access to employment.
2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:
 - (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
 - (b) where there is a recognized or significant risk to the health of the woman and child.

BREASTFEEDING MOTHERS

Article 10

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.
2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

PERIODIC REVIEW

Article 11

Each Member shall examine periodically, in consultation with the representative organizations of employers and workers, the appropriateness of extending the period of leave referred to in Article 4 or of increasing the amount or the rate of the cash benefits referred to in Article 6.

IMPLEMENTATION

Article 12

This Convention shall be implemented by means of laws or regulations, except in so far as effect is given to it by other means such as collective agreements, arbitration awards, court decisions, or in any other manner consistent with national practice.

FINAL PROVISIONS

Article 13

This Convention revises the Maternity Protection Convention (Revised), 1952.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General. 3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall

examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.



R191

Maternity Protection Recommendation, 2000

RECOMMENDATION CONCERNING THE REVISION OF THE MATERNITY PROTECTION RECOMMENDATION, 1952

Recommendation:	R191
Place:	Geneva
Session of the Conference:	88
Date of adoption:	15:06:2000

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and

having met in its 88th Session on 30 May 2000, and Having decided upon the adoption of certain proposals with regard to maternity protection, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Maternity Protection Convention, 2000 (hereinafter referred to as "the Convention"),

adopts this fifteenth day of June of the year two thousand the following Recommendation, which may be cited as the Maternity Protection Recommendation, 2000.

Maternity leave

1. (1) Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.
(2) Provision should be made for an extension of the maternity leave in the event of multiple births.

- (3) To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.

Benefits

2. Where practicable, and after consultation with the representative organizations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.
3. To the extent possible, the medical benefits provided for in Article 6, paragraph 7, of the Convention should include:
 - (a) care given in a doctor's office, at home or in a hospital or other medical establishment by a general practitioner or a specialist;
 - (b) maternity care given by a qualified midwife or by another maternity service at home or in a hospital or other medical establishment;
 - (c) maintenance in a hospital or other medical establishment;
 - (d) any necessary pharmaceutical and medical supplies, examinations and tests prescribed by a medical practitioner or other qualified person; and
 - (e) dental and surgical care.

Financing of benefits

4. Any contribution due under compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.

Employment protection and non-discrimination

5. A woman should be entitled to return to her former position or an equivalent position paid at the same rate at the end of her leave referred to in Article 5 of the Convention. The period of

leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for the determination of her rights.

Health protection

6. (1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.
- (2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:
 - (a) elimination of risk;
 - (b) an adaptation of her conditions of work;
 - (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
 - (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.
- (3) Measures referred to in subparagraph (2) should in particular be taken in respect of:
 - (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
 - (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
 - (c) work requiring special equilibrium;
 - (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.
- (4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.
- (5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.
- (6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

Breastfeeding mothers

7. On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.
8. Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.
9. Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

Related types of leave

10. (1) In the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.
- (2) In the case of sickness or hospitalization of the mother after childbirth and before the expiry of postnatal leave, and where the mother cannot look after the child, the employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.
- (3) The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave.
- (4) The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any manner consistent with national practice.
- (5) Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.

C-183

presentation

THE SUBSTANCE OF ILO CONVENTION 183

SCOPE

- ♦ Applies to ALL EMPLOYED WOMEN.
- ♦ States (after tripartite consultation) may exclude limited categories of workers IF the application of the Convention would raise special problems of a substantial nature.
- ♦ States have to list the categories of workers excluded, and the reason for exclusion.

HEALTH PROTECTION

- ♦ States to adopt measures to ensure that pregnant or breast-feeding women are not obliged to perform work that has been determined by a competent authority to be of risk to the health of the mother or child

MATERNITY LEAVE

- ♦ Upon production of a medical certificate stating the presumed date of childbirth, a woman is entitled to maternity leave for not less than 14 weeks, (i.e. 3 and-a-half months)
- ♦ 6 weeks of compulsory leave AFTER CHILDBIRTH is a must
- ♦ The period of pre-natal maternity leave should not reduce the compulsory 6-week post-natal leave

LEAVE IN CASE OF ILLNESS/COMPLICATION

- ♦ Upon production of a medical certificate, leave shall be provided before, or after, the maternity leave period in the case of illness, complications, or risk of complications arising out of pregnancy or childbirth
- ♦ National law and practice may determine the nature and maximum duration of such leave

BENEFITS

- ♦ Cash benefits shall be provided to women on maternity leave, in accordance with national laws.
- ♦ Cash benefits shall be at a level which ensures that the woman can maintain herself and child in proper conditions of health, with a sustainable level of living.
- ♦ Conditions for qualification for cash benefits should be satisfied by a large majority of women.

BENEFITS

- ♦ Medical benefits shall be provided for the woman and child. It includes prenatal, childbirth, and postnatal care, as well as hospitalisation care where necessary.
- ♦ States whose economy and social security system is insufficiently developed shall be in compliance with the Convention if the cash benefits are at a rate no lower than a rate payable for sickness or temporary disability. But it has to explain the reasons, and provide subsequent reports on measures to progressively raise the rate of benefits.

EMPLOYMENT PROTECTION & NON-DISCRIMINATION

- ♦ Unlawful for an employer to terminate a woman's employment during her pregnancy or maternity leave, except on grounds UNRELATED to the pregnancy or birth of the child. The burden of proof is on the employer.
- ♦ A woman is GUARANTEED the right to return to the same position or its equivalent, paid at the same rate as at the end of her maternity leave.

EMPLOYMENT PROTECTION & NON-DISCRIMINATION

- ♦ States to adopt measures to ensure that maternity DOES NOT become a source of discrimination in employment, including access to employment.
- ♦ How? Prohibition of pregnancy test (or certification of such a test) when a woman is applying for employment, EXCEPT where the laws requires such a statement in relation to work that is prohibited or restricted for pregnant or nursing women, or where there is a recognised/significant risk to the health of the woman and child.

BREAST-FEEDING MOTHERS

- ♦ A woman shall be provided with the right to one or more daily breaks (or a daily reduction of hours) to breastfeed her child.
- ♦ The period for such breaks will be determined by national law.
- ♦ Such breaks shall be counted as working time and remunerated accordingly.

PERIODIC REVIEW

- ♦ States shall examine periodically, in consultation with employers and workers representatives, the appropriateness of extending the maternity leave period, or increasing the amount or rate of cash benefits.

IMPLEMENTATION

- ♦ The Convention is to be implemented by law or regulation, or in any manner consistent with national practice, e.g. collective agreements, arbitration awards, court decisions.