

Crisis has opened up new space for discrimination at work

Economically adverse times are a breeding ground for discrimination at work and in society more broadly. The ILO's new Global Report entitled Equality at work: The continuing challenge cites equality bodies which are receiving increased numbers of complaints, showing that workplace discrimination has become more varied and discrimination on multiple grounds is becoming the rule rather than the exception.

08/01/2011

coverstory_discr

The report, [Report I\(B\) - Equality at work: The continuing challenge - Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work](#), warns against a tendency during economic downturns to give lower priority to anti-discrimination policies and workers' rights in practice. "We see this with the rise of populist solutions," says ILO Director-General Juan Somavia, adding that "this threatens painstaking achievements of several decades".

According to the report, austerity measures and cutbacks in the budget of labour administration and inspection services, and in funds available to specialized bodies dealing with non-discrimination and equality, can seriously compromise the ability of existing institutions to prevent the economic crisis from generating more discrimination and more inequalities.

The lack of reliable data in this context makes it difficult to assess the exact impact of these measures, says the report. It therefore calls on governments to put into place human, technical and financial resources to improve data collection on discrimination at the national level.

The report also notes that new forms of discrimination at work are arising, while the old challenges remain at best only partially answered.

The ILO response

The Global Report recommends a series of steps to combat discrimination. These include four priority areas, including the promotion of the universal ratification and application of the two fundamental ILO Conventions on equality and non-discrimination; the development and sharing of knowledge on the elimination of discrimination in employment and occupation; development of the institutional capacity of ILO constituents to more effectively implement the fundamental right of non-discrimination at work; and strengthening of international partnerships with major actors on equality.

Ratifications of the two fundamental ILO Conventions in this area – the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) – stand at 168 and 169 respectively, out of a total of 183 ILO member States. When ratification levels are over 90 per cent, the target of universal ratification is attainable, the report says.

"Discrimination threatens painstaking achievements of several decades"

"The fundamental right of non-discrimination in employment and occupation for all women and men is part and parcel of decent work policies for sustainable and balanced economic growth and fairer societies," Mr Somavia said. "The right response is to combine policies for economic growth with policies for employment, social protection and rights at work, enabling governments, social partners and civil society to work together, including changing attitudes through education."

The report is part of a series of studies issued annually on core ILO labour standards and was prepared under the Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference in 1998. The Declaration focuses on four fundamental principles – freedom of association, the elimination of child labour, the elimination of forced labour and of discrimination.

AMONG THE KEY FINDINGS OF THE REPORT:

- Significant progress has been made in recent decades in advancing gender equality in the world of work. However, the gender pay gap still exists, with women's wages being on average 70–90 per cent of men's. While flexible arrangements of working schedules are gradually being introduced as an element of more family-friendly policies, discrimination related to pregnancy and maternity is still common.
- Sexual harassment is a significant problem in workplaces. Young, financially dependent, single or divorced women, and migrants are the most vulnerable, while men who experience harassment tend to be young, gay, or members of ethnic or racial minorities.
- Combating racism is as relevant today as it ever was. Barriers impeding equal access to the labour market still need to be dismantled, particularly for people of African and Asian descent, indigenous peoples and ethnic minorities, and above all women in these groups.
- Migrant workers face widespread discrimination in access to employment, and many encounter discrimination when employed, including in access to social insurance programmes.
- Rising numbers of women and men experience discrimination on religious grounds, while discrimination on the basis of political opinion tends to take place in the public sector, where loyalty to the policies of authorities in power can be a factor in access to employment.
- Work-related discrimination continues to exist for many of the world's 650 million persons with disabilities, as their low employment rate reveals.
- Persons with HIV/AIDS can suffer discrimination through mandatory testing policies, or testing under conditions which are not genuinely voluntary or confidential.
- In the European Union, a total of 64 per cent of those surveyed expected that the economic crisis would lead to more age discrimination in the labour market.
- In a limited number of industrialized countries, discrimination based on lifestyle has emerged as a topical issue, especially in relation to smoking and obesity.

No smoking? Smoke-free workplaces light up smoker rights discussions

In a world where 25 per cent of the over 15-year-old population are smokers, and with most of them being of working age, it is not surprising that tobacco usage in the workplace has become a very relevant issue in the past few years. Creating a safe and healthy work environment for all employees is a responsibility that companies and organizations cannot take lightly. Tara S. Kerpelman, a Geneva-based journalist, reports.

According to the World Health Organization (WHO), the tobacco epidemic kills nearly six million people each year; that is more than one and a half times the population of New Zealand. Although 83 per cent of those deaths were of tobacco users or ex-users, more than 600,000 were of non-smokers who had been exposed to second-hand smoke. "After high blood pressure, tobacco use is the biggest contributor to the epidemic of non-communicable diseases," states the WHO.

Heated discussions have emerged following relatively new policies on smoke-free environments in the workplace, from banning people from smoking except in designated areas, to declaring outdoor public areas such as parks to be “smoke-free”, to completely eliminating smoking from a place of work by screening job applicants to determine whether or not they are smokers.

Some argue that it is outright discrimination to exclude smokers from employment. Some say smoking is a choice, and therefore that this type of screening is a breach of human rights. And some believe that it is the right of the non-smoker employees to work in a protected environment.

“Smoking is an addiction, but also a personal choice,” says Andrew Bean, a recruiter for a human resources consulting agency in Geneva, Switzerland. His view is that refusing a smoker the right to work is the same as refusing someone the right to work based on his religion, lifestyle or political views.

“All employment decisions must be based on a person’s capacity to perform a job”

The ILO defines employment discrimination as “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.”

“One key aspect of the principle of non-discrimination and equality at work is that all employment decisions must be based on a person’s capacity to perform a job,” says Lisa Wong, Senior Declaration Officer in the ILO’s Programme on Promoting the Declaration on Fundamental Principles and Rights at Work.

“If smoking, including beyond working hours and outside the workplace, is proven to affect the accomplishment of work-related tasks, not recruiting a smoker is in order,” she says. “Similarly, smoking could be a valid motive for dismissal if it is detrimental to co-workers or other people with whom the smoker may interact in his/her daily work.”

Sandra Volken, a professional working in Zurich, Switzerland, found herself in such a situation. After an interview with a job candidate, she said, “we didn’t hire her because she smelled like a really strong smoker. [It] bothered all of us.”

Fostering a healthy working environment

Choosing to foster a healthy environment to protect the well-being of employees is a top reason companies are moving towards adopting smoke-free rules. In 2005, the WHO implemented a policy to discard applications for jobs in the Organization by smokers, following the WHO Framework Convention on Tobacco Control (FCTC).

On the application form, candidates are asked whether they are smokers, and if so, must indicate whether they are willing to give it up if offered employment with the Organization. “If smokers/tobacco users do not indicate that they are willing to try to give up, they are excluded from further consideration,” said David Nolan, Recruitment, Career Management and Organizational Design Coordinator in the Department of Human Resources Management at the WHO.

Mr Nolan said the WHO does not consider this policy to be either an attack on privacy or on human rights. "The WHO is at the forefront of the global campaign to curb the tobacco epidemic. The Organization has a responsibility to ensure that this is reflected in all its work, including recruitment practices," he said. "The policy of not recruiting smokers or other tobacco users is a practical demonstration of the Organization's commitment to 'de-normalizing' tobacco use and promoting global tobacco control."

In 2002, Caroline Fichtenberg and Stanton Glantz carried out a systematic review investigating the effect of smoke-free workplaces on smoking behaviour: "Smoke-free workplaces not only protect non-smokers from the dangers of passive smoking, they also encourage smokers to quit or to reduce consumption, reducing total cigarette consumption per employee by 29 per cent," they said.

"If all workplaces that are currently not smoke-free in the United States and the United Kingdom were to become smoke-free, [cigarette] consumption per capita (for the entire adult population) would drop by 4.5 per cent and 7.6 per cent, respectively," the review says.

Anti-smoking laws on the rise

In the past few years many countries have implemented laws banning smoking in public places, to protect non-smokers from second-hand smoke. One of the negative consequences can be found in the hospitality industry, which suffered economically when smoker clientele were prohibited from lighting up just anywhere.

La Bagatelle, one of Geneva's oldest restaurants, saw its numbers fall. "Probably 30 per cent of our clients in the mornings were students who wanted a smoke and a coffee. They've all gone now," said David Wailliez, co-manager. "The worst part is, sometimes there's just nobody in the restaurant."

As the discussions on creating more smoke-free environments continue, governments, employers and workers must be made aware of the issues so they can collaborate in finding the best ways to create a safe and healthy work environment. "Denying a job or dismissing qualified persons because they are off-duty smokers would amount to discrimination and constitute an undue intrusion in private life," says Lisa Wong. So where, then, do we draw the line? Perhaps in the future, agreements between all parties can be reached and international standards on smokers' and non-smokers' rights can be implemented.