



DECENT WORK

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International
Labour
Organization

Remove the obstacles! On the right track to equality

Fifty years ago, the International Labour Organization adopted what is still the most comprehensive, dedicated international instrument on non-discrimination and equality in the world of work. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) was forward-looking in its time, and remains as relevant today as it was in the late 1950s. Now is the time to celebrate fifty years of this key Convention on equality and the progress that has been made. It is also a time for reflection, as the goal of eliminating any discrimination in employment and occupation set out in the Convention remains a distant one. To be on the right track to equality, it is time to identify and remove the remaining obstacles and actively promote gender equality.

GENDER EQUALITY AT WORK: A FUNDAMENTAL PRINCIPLE AND RIGHT

Since 1919, the ILO has sought to guarantee labour rights and improve working conditions for women and men. Equality is enshrined in the ILO Constitution. The principle was first made operational in 1951, when the ILO adopted the Equal Remuneration Convention (No. 100). Acknowledging that discrimination in remuneration cannot be tackled effectively without ensuring more general protection against discrimination in employment and occupation, the ILO adopted the Discrimination (Employment and Occupation) Convention (No. 111) in 1958. The ILO's commitment to the elimination of discrimination was reaffirmed in the ILO Declaration on Fundamental Principles and Rights at Work, 1998. The ILO Declaration on Social Justice for a Fair Globalization, 2008, also reaffirms that gender equality and non-discrimination are cross-cutting issues in all the ILO's work.

Convention No. 111 is widely accepted¹. The progress that has been achieved in the application of the principle of equality of opportunity and treatment between men and women and the leading role that the Convention has played during these fifty years should be heralded. This progress should be a further incentive to aim for universal ratification of this key equality Convention as well as better implementation.

More women today are in the formal economy than ever before². There are higher proportions of women in public services and increasing numbers of equal opportunities policies globally. However, while women's participation in the formal labour market has increased in most parts of the world, women still face multiple forms of discrimination in the labour market³. Despite the narrowing of gender gaps in educational attainments and work experience, women continue to earn less than men on average, are over-represented in informal and atypical jobs, face greater barriers than men in obtaining and maintaining high-status jobs, and bear the unequal burden of family responsibilities. Discriminatory practices based on assumptions



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¹ As of 31 July 2008, Convention No. 111 had been ratified by 168 out of 182 member States of the ILO. Convention No. 100 had been ratified by 166 member States.

² In 2007, 1.2 billion women around the world worked, almost 200 million or 18.4 per cent more than in 1997. ILO, 2008. *Global Employment Trends for Women* (Geneva).

³ ILO, 2007. *Equality at work: Tackling the challenges*, ILC Report I(B), 96th Session (Geneva).

GENDER EQUALITY AT THE HEART OF DECENT WORK

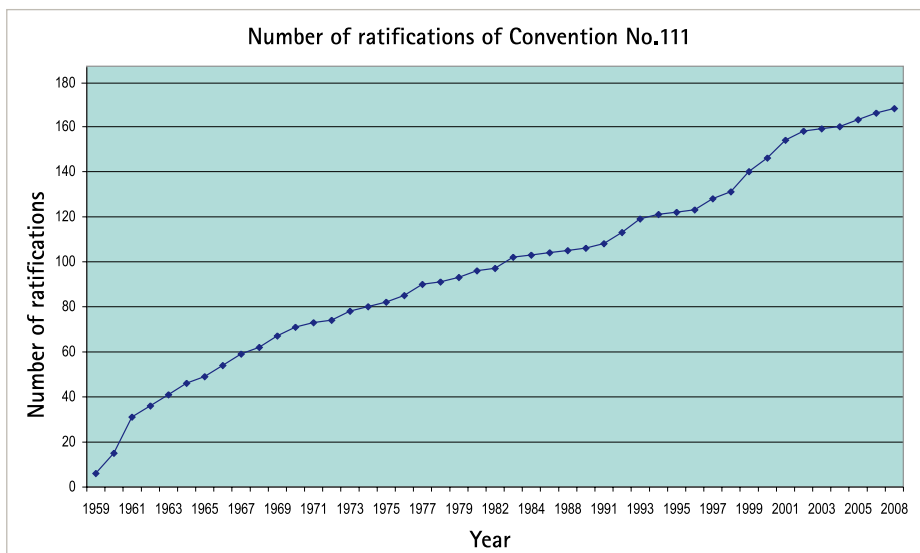


GENDER EQUALITY AT THE HEART OF DECENT WORK

about which jobs are "appropriate" for women⁴, or their reproductive role continue to exist⁵. Women, more than men, suffer from sexual harassment at work as well.

Issues related to equal pay, reconciling work and family responsibilities, and maternity protection must be part of overall policy packages to promote gender equality. The gender pay gap is both a cause and consequence of gender inequalities between women and men, and must be addressed. Achieving equality also requires policies to better enable men and women with family responsibilities to prepare for, enter and advance in employment. Maternity protection is essential in ensuring that women's reproductive roles do not jeopardize their economic security, their health or the health of their children. Together with Conventions Nos. 100 and 111, two other ILO Conventions - the Workers with Family Responsibilities Convention, 1981 (No. 156) and the Maternity Protection Convention, 2000 (No. 183) - have been acknowledged as essential instruments for achieving gender equality in the world of work. To be effective, gender equality policies should address issues covered by all of these Conventions.

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) was adopted to reinforce existing international instruments⁶. This Convention affirms women's right to work and to maternity protection. It also recognizes the importance of shared family responsibilities, the right to have equal employment and educational opportunities, benefits and social security, and to be paid equally for work of equal value⁷.



WHAT IS DISCRIMINATION?

Discrimination occurs when a *distinction, exclusion or preference is made on the basis of certain grounds such as race, colour, sex, religion, political opinion, national extraction or social origin which has a negative effect on the enjoyment of equality of opportunity or treatment in employment or occupation*⁸.

Convention No. 111 addresses all forms of *direct or indirect* discrimination in the world of work, whether in law or in practice. Direct sex discrimination could involve a law that specifically excludes women from performing certain jobs, legislation that does not allow women to sign contracts, or discriminatory recruitment processes, including advertisements specifying that a post is for a woman or a man. Although direct sex discrimination has declined over the years, indirect discrimination still persists in many forms. Indirect discrimination is more subtle and often hidden. It occurs when apparently neutral measures have a disproportionately adverse impact on one particular group. Even well-intentioned measures can be discriminatory. For example, organizing vocational training outside working hours may lead to low participation of women and, as a result, to fewer opportunities for access to employment or career prospects.

⁴ An example of gender stereotypes in employment is the belief that female managers and male managers have different work values or goals because of their sex. A recent Catalyst study shows that men and women executives at major global companies actually share the same priorities for what they value most in their workplaces and careers. Catalyst, 3 June 2008. "New Study Shows Gender, Rank and Regional Differences in Finding the Right Fit for Top Corporate Talent", <http://www.catalyst.org/press-release/129/new-study-shows-gender-rank-and-regional-differences-in-finding-the-right-fit-for-top-corporate-talent>.

⁵ A UK survey showed that 52 per cent of managers consider the candidate's pregnancy potential, by looking at the candidate's age and marital status. Seventy-six per cent of the managers surveyed would not hire a new recruit if they knew she would become pregnant within six months of starting the job. BBC, 21 April, 2008. "Bosses 'weigh up pregnancy risk'", <http://news.bbc.co.uk/2/hi/business/7357509.stm>.

⁶ CEDAW has been ratified by 185 countries.

⁷ See Articles, 6, 10 and 11 of CEDAW.

⁸ Convention No. 111, Article 1(1)(a).



Only in a few cases are distinctions made on the basis of sex acceptable. This is when the distinction relates to an inherent requirement of a specific job. For instance, being male or female may be a requirement in the performing arts or for jobs involving close physical contact, such as medical personnel or airport security.

PROMOTING EQUALITY: THE RIGHT THING TO DO, THE SMART THING TO DO

Discrimination at work is not only a waste of human talent, but a violation of human rights. More and more societies are realizing that workplaces free from discrimination are in the interest of individuals, communities and nations. They are also in the best "business" interest of enterprises and institutions.

By proactively seeking to end discrimination at work and to promote equality, institutions and enterprises will be able to benefit from the widest possible pool of talent from which they can select their employees. Non-discriminatory employment is likely to attract better candidates and the selection process of candidates will be more credible when it is transparent and based on merit⁹. It is also well-established that a workforce that represents the diversity of a society is more likely to understand and respond more effectively to the needs of its client base in that society¹⁰. Moreover, a diverse workforce can help diffuse prejudices and stereotypes more generally and show that a society free of discrimination is possible, effective and desirable.

According to a study of US Fortune 500 companies, having more women on these companies' boards correlates strongly with above-average returns on share-holder equity, sales and inversed capital¹¹. Promoting gender equality is not only in the interest of business but also benefits economic performance¹². A World Bank study found that in developing countries, better access of women to education, vocational skills, land and credit results in improved labour market outcomes and higher productivity growth¹³. Where poverty reduction strategies have integrated gender equality concerns, they have proven to be more effective¹⁴.

ADDRESSING DISCRIMINATION IN LAW AND PRACTICE

The adoption of anti-discrimination and equality legislation is a crucial step in ensuring equality at work. Considerable progress has been made in this regard. Recent positive developments include the adoption of comprehensive gender equality legislation (e.g. Azerbaijan, Ukraine and Vietnam) and sexual harassment legislation (e.g. Chile). Problems persist however. For instance, some categories of workers, such as domestic workers, often find themselves excluded from national legislation. Some countries do not prohibit sex discrimination in all aspects of employment (i.e. recruitment, access to vocational training, terms and conditions of employment, dismissal and retirement). Some may apply equal pay provisions only to the basic or ordinary wage (or to certain allowances), or maintain sex-based differences in the payment of additional allowances, including family allowances. Laws on sexual harassment often lack clear definitions and appropriate responses. While notable progress has been made in repealing discriminatory legal provisions, such provisions have not yet been entirely relegated to the past. A number of countries still place limitations on the type of work that women can do and protective measures frequently exclude women from certain occupations¹⁵. Often such exclusions are based on gender-biased assumptions regarding the role and capabilities of women. Protective measures can be put into place for pregnant women, and to a limited extent to protect women's reproductive health. But if a job puts a women's reproductive health into jeopardy, it may also be equally dangerous to a man's reproductive health, so both the men and the women should be protected.



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⁹ ILO, 2005. *Employers' Organizations taking the lead on gender equality: Case studies from 10 countries* (Geneva, Bureau for Employers' Activities), p. 9.

¹⁰ Wentling, R. M., Palma-Rivas, N., 1997. *Current status and future trends of diversity initiatives in the workplace: Diversity experts' perspective* (Berkeley, National Center for Research in Vocational Education, University of California), <http://vocserve.berkeley.edu/abstracts/MDS-1082/MDS-1082-RESULTS.html>.

¹¹ Where women were not present on boards, the Fortune 500 companies tended to have below-average returns. Catalyst, October 2007. "The Bottom Line: Corporate Performance and Women's Representation on Boards", <http://www.catalyst.org/publication/200/the-bottom-line-corporate-performance-and-womens-representation-on-boards>.

¹² See Sengenberger, W., 2005. *Globalization and Social Progress: The Role and Impact of International Labour Standards* (Bonn, Friedrich Ebert Stiftung), pp. 76-78.

¹³ Mason, A.D., King, E.M., 2001. *Engendering development through gender equality in rights, resources, and voice* (Washington D.C., World Bank).

¹⁴ See ILO, 2000. *Gender, Poverty and Employment: Readers Kit* (Geneva), and ILO, 2003. *Time for Equality at Work*, I(B), 91st session (Geneva), p. 27 and pp. 90-92.

¹⁵ See ILO, 2008. *Report of the ILO Committee of Experts on the Application of Conventions and Recommendations (RCE)*, Observation on the Russian Federation, p. 408. See also ILO, 2007. *RCE, Observation on Saudi Arabia*, p. 316.

GENDER EQUALITY AT THE HEART OF DECENT WORK

As discrimination against women is often deeply entrenched in tradition and societal values, it can be difficult to quantify, prove and address. It is therefore essential to look a step beyond the elimination or prohibition of discriminatory laws. ILO Conventions on gender equality are not only aimed at the elimination of discrimination in law, but also require action by states to address inequalities in practice. Workers' and employers' organizations also have key roles in the design and implementation of national policies on equality. Legal provisions and their implications need to be made known, understood and relied upon. In Indonesia, the Government moved forward by developing practical guidelines to promote equality at the workplace, together with the social partners; in Sri Lanka, the Employers' Federation of Ceylon has adopted guidelines for company policy on gender equality¹⁶.

A COMPREHENSIVE NATIONAL POLICY ON GENDER EQUALITY: CROATIA

Croatia's National Policy for the Promotion of Gender Equality 2006-2010 aims at eliminating discrimination against women and establishing genuine gender equality in all social spheres, including in the labour market. The Policy outlines measures to ensure women's economic empowerment, eliminate all forms of discrimination, and to reduce female unemployment rates. It also promotes the sharing of family responsibilities between men and women and increasing the availability of childcare services as a means of achieving effective gender equality.

Affirmative action, sometimes referred to as special temporary measures, can be an important and legitimate tool in addressing the unequal position of men and women in employment and occupation¹⁷. Affirmative action aims to compensate for past discrimination or at overcoming existing discrimination with a view to achieving equality. Such measures are of a temporary nature, and should only be maintained as long as necessary to achieve their objective. Therefore, their implementation should be assessed on a regular basis. This has been recognized by a number of countries worldwide. Fiji, Republic of Korea, Mexico, Republic of Moldova, Namibia and Romania have inserted affirmative action provisions in their equality legislation.

ENFORCEMENT

There are still many challenges in enforcing equality and non-discrimination laws. It may be hard to obtain legal assistance or gather enough evidence to prove individual cases, as much of the evidence may be in the hands of the discriminating parties. Costs may be high and delays long. The elimination of discrimination and promotion of equality therefore require strong institutions and effective legal mechanisms. Judges and legal practitioners play a crucial role in restoring justice in cases of discrimination. National specialized institutions on equality are valuable for protecting equal rights at work and elsewhere, although much needs to be done to improve their effectiveness. The potential of labour inspectorates in addressing sex-based discrimination is also increasingly being recognized. The Equal Pay Act of Cyprus, 2002, assigns a specific supervisory and advisory role to the labour inspectorate regarding equal pay. Annual training is provided for labour inspectors on equality in Uruguay. In Pakistan, the elimination of gender discrimination has been identified as a major objective of the Labour Inspection Policy, 2006. Legislation in the EU Member States¹⁸ and in countries such as South Africa and Guyana shift the burden of proof to the respondents. Collective bargaining can also have an important role in setting up procedures to promote equality and address complaints of discrimination¹⁹.

THE NATIONAL COUNCIL FOR THE PREVENTION OF DISCRIMINATION: MEXICO

The National Council was established by the Federal Act for the prevention and elimination of discrimination, 2003. The Act contains measures for the prevention of sex-based discrimination, for affirmative action and compensation to promote equality of opportunity. The National Council develops programmes to fight discrimination in employment; proposes relevant legal reforms; launches awareness-raising campaigns; carries out studies to document the incidence and manifestations of different forms of discrimination; investigates any alleged discriminatory practice by an individual or federal authorities; applies administrative measures prescribed by the Federal Act and verifies the adoption of preventive and corrective measures by public and private organizations.

Source: ILO, 2007. *Equality at work: Tackling the Challenges*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. ILC Report I (B), 96th Session (Geneva), p. 58.

¹⁶ ILO, 2007. *RCE, Observation on Indonesia*, p. 323 and *Observation on Sri Lanka*, p. 296.

¹⁷ Article 5 of ILO Convention No.111. See also General recommendation No. 25, on article 4, paragraph 1, of CEDAW, on temporary special measures.

¹⁸ The Council of the European Union, Council Directives 97/80/EC of 15 December 1997, the burden of proof in cases of sex-based discrimination; 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; and 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation.

¹⁹ "Booklet 1 on Gender Equality Bargaining: An Overview" in Olney, S., Goodson, E., Maloba-Caines, K. and O'Neill, F., *Gender Equality: A Guide to Collective Bargaining* (Geneva, ILO Social Dialogue and Bureau for Workers' Activities, 2002), p. 5.



TRAINING, EDUCATION, AND ACCESS TO JOBS: CHOICES OR SEGREGATION?

Given societal gender-biases, it is not surprising that globally, labour markets are still segregated to a large degree. Occupational segregation is an expression of inequality, as it implies differentials in power, skills, income and opportunities. Although there are more women today in occupations that were traditionally regarded as the concern of men, particularly in the scientific and technical fields, women's participation is still far from equal to that of men in these areas. Women are typically concentrated in "the five C" jobs: caring, cashiering, catering, cleaning and clerical. Despite the higher share of women in the public sector, they generally occupy the lower-level posts and have fewer career opportunities than their male counterparts. The same holds true for the private sector.



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Training and education are extremely important in determining the actual opportunities for gaining access to employment and occupation. Underinvestment in the education and training of girls and women, from generation to generation, often starts at the earliest stages of their lives and continues throughout their life-cycles, hampering their ability to obtain decent and productive work. Predetermined gender roles prevent them from having access to a full range of educational opportunities, thus limiting future options in terms of choice of occupation. Most countries have recognized the right to equal access to education and vocational training. However, training programmes continue to offer stereotyped 'feminine' skills for girls, such as typing, sewing, catering and waitressing as opposed to encouraging scientific or technical knowledge. Boys, on the other hand, are expected to enter educational programmes leading to "masculine" jobs, thus limiting their choices early on as well. Vocational guidance and job counselling often fail to encourage women and girls to take up training programmes that would lead them into higher-status and higher paid professions.



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Policies aimed at addressing gender segregation in education, training and employment require a comprehensive set of measures²⁰. In France, for instance, the National Inter-Occupational Agreement of 2004 on Diversity and Professional Equality between Men and Women confirms the role of the social partners in promoting equality in vocational training and guidance, recruitment, promotion and upward mobility, and in taking measures to combat stereotypes and prejudices affecting women's employment. Many countries are currently looking for solutions to combat discrimination in the job application process. Some countries are experimenting with schemes to protect job-seekers from discrimination in recruitment, such as requesting applications that omit the sex of the applicant, name, address, marital status and picture²¹.

CLOSING THE GENDER PAY GAP

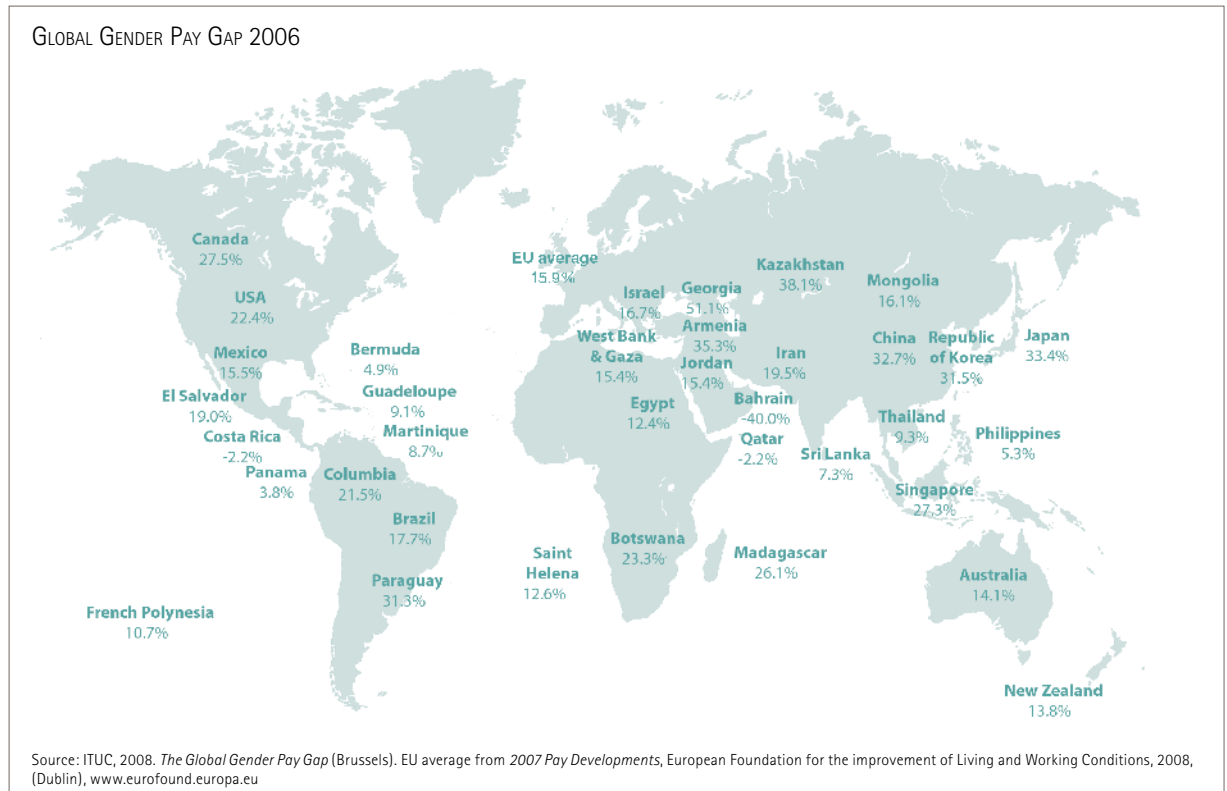
If "money talks", women do not have a loud voice. Pay differentials remain one of the most persistent forms of inequality between women and men. They vary from country to country and within countries, between the public and private sectors as well as between different sectors of the economy. While some comparable data on wages are available for the manufacturing sector, accurate and reliable data on the gender pay gap per occupation on a global scale are not readily available²². A first attempt by the International Trade Union Confederation (ITUC) to collect global data on the average gender pay gap by occupation should therefore be further encouraged. The ITUC report on the gender pay gap confirms that, globally, women continue to work, on average, for lower wages than men²³.

²⁰ ILO, 2008. *Youth Employment: Breaking gender barriers for young women and men* (Geneva), http://www.ilo.org/gender/Events/lang--en/docName--WCMS_097919/index.htm.

²¹ Paris Times, 3 April 2008. *Anonymously Yours*, <http://www.theparistimes.com/content/anonymously-yours>.

²² Data on the gender pay gap also differ depending on whether wages or earnings are being used, or whether hourly or monthly earnings or wages are being compared.

²³ ITUC, 2008. *The Global Gender Pay Gap*, (Brussels) p. 12.



Pay inequalities are not necessarily a reflection of market factors, since the market is itself gender biased, but may result from historical undervaluing of "female" skills and jobs, differences in collective bargaining power, or preconceived ideas about limited skills and market rates. The causes of the gender pay gap are found both within and outside the labour market. Policies to eliminate discrimination in remuneration therefore not only need to deal with labour market discrimination but also with perceptions of the role of women, and the difficulty in balancing work and family responsibilities²⁴.

Ensuring equal pay for work of equal value is a key element in eliminating sex-based discrimination and promoting gender equality. Considerable difficulties remain in applying this right in law and practice. This is due to a lack of understanding of the scope and implications of the concept of "work of equal value"²⁵. "Work of equal value" includes, but goes beyond, equal remuneration for "equal", the "same" or "similar" work. It also encompasses work that is of an entirely different nature, but is nevertheless of equal value. Understanding this concept is essential in addressing occupational segregation where men and women often perform different jobs, under different conditions, and even in different establishments. It is also essential to counter the undervaluation of "female jobs" in comparison with those of men, when determining wage rates. Assessing jobs in an objective manner may increase not only the income of women, but also the national income²⁶.

In order to establish whether different jobs are of equal value, there has to be an examination of the respective tasks involved. This examination must be undertaken on the basis of entirely objective and non-discriminatory criteria to avoid an assessment being tainted by gender bias²⁷. Otherwise key requirements of jobs performed by women are either disregarded or scored lower than those performed by men, thus reinforcing discrimination in pay. In assessing equal pay, it is also important to look at all components of the pay packages, including the basic wages, all benefits, and all allowances.

Minimum wages have proven to be helpful to curb gender wage differentials for low pay workers. However, to reduce gender biases in wage-fixing, it is important that minimum wages cover sectors and jobs where women prevail and that the wage fixing process does not undervalue female-dominated occupations.

World wide, more and more countries are including provisions guaranteeing equal pay for men and women in their employment law (e.g. Poland, Turkey) or equality legislation (e.g. Austria, Bosnia and Herzegovina, Saint Lucia). Others have adopted special equal pay laws (e.g. Canada, Cyprus). Some countries (e.g. Finland, France and Spain) have adopted proactive laws requiring employers to take active measures to promote equal opportunities in pay²⁸. However, several countries still retain legal provisions that do not give expression to the concept of "work of equal value" and the ILO supervisory bodies have urged them to take the necessary steps to amend their legislation.

²⁴ ILO, 2001. *RCE*, paragraph 49.

²⁵ ILO, 2007. *RCE*, General Observation on Convention No. 100, pp. 271-272.

²⁶ A study in Latin America estimated that ending inequalities against women in the labour market could increase women's wages by 50 per cent while increasing national output by 5 per cent. UNFPA, 2000. *State of World Population, Lives Together, Worlds Apart: Men and Women in a Time of Change* (New York), p. 38.

²⁷ ILO, 2007. *RCE*, General Observation on Convention No. 100, op. cit.

²⁸ ILO, 2007. *Equality at Work: Tackling the Challenges*, op. cit., p. 55.



RECONCILING WORK AND FAMILY

Conflict between work and family responsibilities and its implications for equality in the labour market have become increasingly prominent. Factors such as long working hours have uneven effects on women, as they are most likely to be the main care providers for their families²⁹. Because of family responsibilities, many women's options are reduced regarding the choice to work or the occupations selected. The availability of child care and commuting distances between home and work are also factors. Differences in the working patterns of women and men have negative impacts on women's job prospects, careers and pay while increasing their overall workload.



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The availability of part-time jobs has, in some ways, opened doors to reconciling work and parenthood³⁰. However, in most countries, part-time work remains "women's work"³¹. Perhaps as a result of women's predominance in part-time work, such work is often synonymous with low-status, low training and limited career opportunities. This calls not only for an enhancement of the status of part-time work but also for a diversification of work and family measures. A number of countries have more recently introduced new statutory rights and obligations concerning terms and conditions of employment, including leave entitlements and flexible working time arrangements, as well as child care benefits (e.g. Bosnia and Herzegovina, Japan, Republic of Korea, Lithuania, the Russian Federation and Slovenia).

Family-friendly arrangements should not be just for women, but provided to men as well, and the notion of "family" needs to be understood to go beyond childcare responsibilities to include any other family member dependent on a working family member (male or female). The lack of family-friendly arrangements for both women and men reinforces sex-based job segregation.

MULTIPLE DISCRIMINATION AND PARTICULARLY VULNERABLE GROUPS

Sex-based discrimination often interacts with other forms of inequality such as religion, race, ethnicity, disability or age. One of the most striking examples is with respect to indigenous women. They have less access to education at all levels, receive less pay, experience worse conditions of work and are particularly vulnerable to sexual abuse, harassment and trafficking as they seek employment far away from their communities. Indigenous women may also be limited by discriminatory cultural practices that inhibit the education of the girl-child or prevent women from inheriting land³².

Migrant workers are often subjected to discrimination because of religion, colour or race and treated unfavourably because of their migrant status³³. Almost half of the world's migrant workers are women who leave their homes to work in other countries, often for low and unskilled jobs. Many of them are not in a position to assert their rights and benefit from equal protection under labour legislation.



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DOMESTIC WORK: INVISIBLE, UNDERVALUED AND UNPROTECTED

An important and growing segment of the labour force, domestic work provides millions of jobs around the world, especially for women. The lack of reliable and affordable care services, combined with the need for both men and women to be engaged in paid work, have boosted the demand for domestic workers. However, regarded as an extension of women's traditional unpaid household and family responsibilities, domestic work is generally undervalued. In many countries it is beyond the reach of labour law, either because it is expressly excluded, or because compliance with the law in the private sphere of the household is difficult to monitor. Given the average low level of education of domestic workers and their lack of other alternatives in the labour market, they remain socially immobile and are prone to discrimination. Domestic workers often face discrimination based on sex, sometimes combined with discrimination based on age, religion, ethnicity and migrant status. The ILO Governing Body decided in 2008 to place the item of promoting decent work for domestic workers on the agenda of the International Labour Conference of 2010 with a view to developing a new ILO instrument.

²⁹ Boulin, J.Y. et al. (eds.), 2006. *Decent Working Time: New trends, new issues* (Geneva, ILO), p. 352.

³⁰ ILO, 2007. *Equality at Work: Tackling the Challenges*, op. cit., p. 77.

³¹ For instance, in Norway, 43 per cent of women versus 13 per cent of men work part-time. Statistics Norway, January 24 2006. *Still male and female professions*, http://www.ssb.no/ola_kari_en/arbeid_en/main.html. This study also showed that women with more than one child of less than 16 years of age most frequently worked part-time.

³² Fernández, J., 2007. *En el núcleo de las discriminaciones: mujeres indígenas en América Latina* (Geneva, ILO, Project to Promote ILO Convention No. 169 and Bureau for Gender Equality). See also Halim, S., 2007. *Case study on gender related challenges among the indigenous peoples in Bangladesh* (Geneva, ILO, Project to Promote ILO Convention No. 169 and Bureau for Gender Equality).

³³ ILO, 2006. *Facts on Discrimination against Migrants*, <http://www.ilo.org/public/english/protection/migrant/equality/download/discrimination/factsheet.pdf>.

GENDER EQUALITY AT THE HEART OF DECENT WORK

Women with disabilities are more likely to be poor, excluded from education, to be unemployed, or lack access to health and other public services. Disabled women are often overlooked in skills training and economic empowerment initiatives such as access to micro-credit, even more so than non-disabled women³⁴. There are also significant wage gaps between men and women with disabilities³⁵.

Forms of discrimination that affect women throughout their lives may be compounded as they get older by age-based discrimination. As women have continued to take on the role of primary care-giver, this may have led to patchy employment records, or part-time jobs, which may have restricted their access to adequate social coverage³⁶. Informal economy workers also generally do not benefit from equality-enhancing policies, which are usually designed for formal workplaces and employees. Discrimination then pushes women into the lower echelons of the informal economy³⁷.

Sex discrimination cannot be addressed in isolation. Comprehensive equality laws and policies are needed that take into account the cumulative disadvantages certain groups face stemming from multiple forms of discrimination.

ILO AND PARTNERSHIPS

Governments have major responsibilities in ensuring equality between women and men in the workplace. Widespread national commitment is obvious, as the two fundamental ILO Conventions in this area have been ratified by over 92 per cent of ILO member States. Implementation and enforcement, however, remains a challenge in many countries.

Employers' and workers' organizations have essential roles to play in promoting equality and combating discrimination, as recognized in Conventions Nos. 100 and 111. Under these Conventions, their active collaboration is required to develop and monitor the observance of non-discrimination and equal opportunity measures and policies and their application at sectoral or enterprise levels. Collective bargaining is essential because gender issues may be inadequately covered by labour legislation or, if covered, may be poorly enforced. Collective bargaining may also be used to change attitudes towards women in employment, or address some non-pay issues.

In recent years, concerns such as sexual harassment, reconciling work and family responsibilities and equal access and opportunities for career development have received much attention by workers' and employers' organizations. Employers' organizations recognize that in general, women face unique challenges and obstacles throughout the various stages of employment, and that enterprises have a role to play in the promotion of gender equality. It is in the interest of employers to promote workplaces that are free from discrimination against women³⁸.

Workers' organizations are leaders in the promotion of diversity at work, and are partners in implementing effective measures to combat discrimination. Workers' organizations have witnessed a steady and rapid growth of female union membership³⁹. Many trade unions have, in recent years, focussed on the gender pay gap. Public Services International (PSI) has been particularly active in developing union awareness about the issue. Another trend in industrialized nations is the incorporation of pay equity provisions in collective agreements⁴⁰.

Issues of gender equality and non-discrimination are integral to all ILO activities. A number of ILO Departments and Programmes, however, have specific roles in this area. The ILO Bureau for Employers' Activities (ACT/EMP) has an advisory role and works through technical cooperation programmes and projects to support employers' organizations in their efforts to ensure non-discrimination against women globally⁴¹. The ILO Bureau for Workers' Activities (ACTRAV) actively promotes equality through, for instance, training and capacity-building to assist workers' organizations⁴².

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³⁴ ILO, 2008. *Skills Development through Community Based Rehabilitation (CBR)* (Geneva, ILO), pp. 13-14.

³⁵ ILO, 2007. *Equality at Work: Tackling the Challenges*, op. cit., p. 44.

³⁶ *Ibid*, p. 38.

³⁷ Sixty per cent of the people who find themselves in the informal economy are women (outside of agriculture), according to the ILO. See ILO, 2007. *The Informal Economy: Enabling transition to formalization*, Geneva, p. 18.

³⁸ ILO, 2005. *Employers' Organizations taking the lead on gender equality*, op. cit., p. 3.

³⁹ Visser, J. 2006. "Union membership statistics in 24 countries", in *Monthly Labour Review*, January, p. 46.

⁴⁰ ILO, 2007. *Equality at Work: Tackling the Challenges*, op. cit., p. xiii.

⁴¹ In Kenya, for instance the Federation of Kenya Employers has worked in collaboration with ACT/EMP on numerous projects where the promotion of gender equality is a key objective. One example is the Private Sector Small Enterprise Programme through which over 300 female entrepreneurs were provided with training and received business counselling services. ILO, 2005. *Employers' Organizations taking the lead on gender equality*, op. cit., p. 38.

⁴² For example, see Olney, S., Goodson, E., Maloba-Caines, K. and O'Neill, F., 2002. *Gender Equality: A Guide to Collective Bargaining*, op. cit.



The Equality Team of the International Labour Standards Department has the primary role in the ILO regarding the supervision of key ILO Conventions that address gender equality and non-discrimination. It is also the main technical unit in the promotion of Conventions Nos. 100 and 111. The ILO supervisory process helps to ensure that the ILO Conventions that have been ratified by member States are being applied⁴³. It also provides valuable guidance to the Office and ILO constituents in identifying and prioritizing issues to be examined in the context of discrimination and equality and the action to be considered.

ILO's efforts to combat discrimination are reviewed on an annual basis by the Committee on Legal Issues and International Labour Standards (LILS) of the Governing Body. The "General Status Report on ILO Action concerning discrimination in employment and occupation" provides a regular update on the guidance emerging from the supervisory bodies. The Report also illustrates the breadth and depth of the work carried out by the ILO in this domain⁴⁴.

The ILO Fundamental Principles and Rights at Work Department (DECLARATION) promotes policies to implement the principles of the ILO Declaration of 1998 in ways that are gender-sensitive and development-oriented. The Conditions of Work and Employment Programme (TRAVAIL) promotes measures to reconcile work and family responsibilities, to ensure maternity protection, and to promote better working conditions and pay equity. The Bureau for Gender Equality (GENDER) works as both an advocate and a catalyst in promoting progress towards equality between women and men. GENDER offers advice to constituents and ILO units alike, in addition to conducting technical cooperation programmes and ILO participatory gender audits.

Decent Work Country Programmes (DWCPs) are also vehicles for ILO cooperation and priority setting at national levels. Gender equality can, for example, be promoted in DWCPs through vocational training, supporting entrepreneurship, eliminating discrimination in social security provisions, or strengthening labour legislation⁴⁵. In the context of UN Reform, DWCPs are the interface for collaboration with UN partners on gender equality at work.

WHAT CAN BE DONE?

Since the adoption of Convention No. 111 fifty years ago, opportunities have been created for women in employment, and legislation covering non-discrimination has been put in place in most countries. Many measures have been taken to combat discrimination against women at work, but more needs to be done. The following non-exhaustive list may provide guidance in this regard:

- Demonstrating a commitment to gender equality through ratification and effective implementation of Conventions Nos. 100 and 111.
- Providing a broader equality framework by ratifying and implementing Conventions Nos. 156 and 183.
- Putting in place and enforcing appropriate legal frameworks concerning equality of opportunity and treatment, covering all workers, including domestic and casual workers and migrant workers. This may include specific and comprehensive non-discrimination and equality legislation covering all aspects of employment and occupation.
- Developing and maintaining an up-to-date knowledge base on discrimination, taking into account cumulative and multiple disadvantages in the labour market and society. This should include collecting and analysing appropriate statistics to determine the full extent and nature of existing inequalities between men and women and gender-based differentials in remuneration.
- Adopting a national policy on equality in employment and occupation involving workers' and employers' organizations and other appropriate bodies. The policy should include practical measures to ensure that legislative provisions and policies on gender equality are widely known and understood as well as effectively implemented. It should be regularly monitored and evaluated.



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⁴³ The Committee of Experts on the Application of Conventions and Recommendations is a body of independent experts from around the world, which meets annually to examine Government's reports and comments from workers' and employers' organizations regarding the application of ILO Conventions.

⁴⁴ See for example GB.295/LILS/6, GB/298/LILS/5, and GB.301/LILS/7.

⁴⁵ ILO, 2008. *ILO Decent Work Country Programmes: A Guidebook, Version 2* (Geneva), p. 4. DWCPs are meant to bring about results through better-coordinated ILO and constituent efforts that focus on the achievement of well-defined outcomes.

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- Supporting affirmative action policies in order to halt existing discrimination or to compensate for past discrimination against women. Affirmative action should be backed up by effective enforcement and capacity building for implementation. It should also recognize and address circumstances where men suffer from discrimination.
- Incorporating gender equality objectives, including equal pay for work of equal value, in national employment promotion and labour market policies.
- Strengthening national human rights institutions such as commissions for equality as valuable institutions for promoting and protecting equal rights at work and in society generally.
- Ensuring that accessible dispute resolution mechanisms are available to address complaints of discrimination.
- Providing specialized training on non-discrimination and equal pay for judges, legal practitioners and labour inspectors to expand their competencies in this area.
- Putting in place measures that help both men and women to reconcile work with family responsibilities, and to encourage a more equal sharing of family responsibilities⁴⁶.
- Promoting comprehensive equal employment policies at the level of the enterprise or workplace, involving trade unions in their design and implementation.
- Promoting, developing and implementing, in cooperation with workers' and employers' organizations, practical approaches and methods for the objective evaluation of jobs, with a view to effectively applying the principle of equal remuneration for work of equal value in the public and private sectors.
- Ensuring that minimum wage laws cover female-dominated sectors and that rates are not set below the rates for male-dominated occupations for work of equal value.
- Promoting bipartite and tripartite social dialogue and collaboration between governments and workers' and employers' organizations on how to most effectively combat discrimination and promote equality for women at work.
- Addressing occupational segregation by applying a wide range of measures. These could include breaking gender barriers to skills training and access to non-traditional employment.
- Addressing prevailing stereotypes about presumed capabilities and aspirations of women and men, including through awareness-raising campaigns and publicizing good equality practices⁴⁷.



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⁴⁶ ILO, 2007. *Equality at Work: Tackling the Challenges*, op. cit., p. 145.

⁴⁷ ILO Gender equality at the heart of decent work, Campaign 2008-2009. Available at: <http://www.ilo.org/gender/Events/Campaign2008-2009/lang--en/index.htm>



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This background brochure has been prepared as part of the ILO public awareness raising campaign on "Gender equality at the heart of decent work".

Please contact us on gendercampaign@ilo.org for information on additional ILO themes addressed by this gender equality campaign.