

High level tripartite informal conference - Malta, September 2000

Social Dialogue, Employment Policy and the Principles of Equal Treatment

EQUAL REMUNERATION FOR work of EQUAL VALUE: uropean Perspectives

Lee Swepston
Chief, Equality and Employment Branch
International Labour Office, Geneva

I. INTRODUCTION [\(1\)](#)

Many of the countries attending this meeting are required to focus on the principle of equal pay for work of equal value in the process of accession of fuller integration into the European Union. Pay differentials remain one of the most persistent forms of inequality between women and men.

Ever since women entered the labour force, they have, in general, been paid less than men. At one time, in many countries, this lower pay for women was an express policy. This was not based upon evidence that women were less productive than men, but on the assumption that women did not need to earn a "living wage", as their husbands were supporting the families. Until fairly recently, few women worked and when they did employers and policy-makers (who were most often men) were also very likely motivated by the belief that women *should* earn less than their husbands, viewing the alternative as a threat to the traditional balance of power within the family.

Over the years the situation changed in many countries. In former socialist block countries, the share of women in the total labour force approached fifty percent by the early 1980's. [\(2\)](#) Legislation in those countries not only *allowed* all women to work who wanted to, it also created a *duty* to do so. Now the duty is gone, but economic necessity maintains high participation rates. In other European countries, the participation of women in the labour force has been on the rise over the last decade, assisted by non-discrimination legislation. Though wages are no longer expressed as male or female rates of pay, on average women continue to receive lower pay than men for performing work of equal value. And they continue to be employed in lower-paid jobs.

[\[top\]](#)

II . GENDER-BASED WAGE DIFFERENTIALS

A. Trends in Women's Employment in Comparison to Men's

Women's paid work played an important role in sustaining economic growth in Western Europe and North America during the 1990's. Between 1991 and

1996 female activity rates increased in 18 out of 24 Western countries within the United Nations Economic Commission for Europe, while men's rates declined or remained stable. Female employment rates rose fast in Western Europe. The increase was most spectacular in countries where women earlier had relatively low levels of economic activity such as Greece, Ireland, Spain and Switzerland. In Sweden and Finland, the participation rates of women are nearing parity with men.⁽³⁾ Continued feminization of the labour force is expected due to demographic, structural and motivational factors assisted by legislative and policy directives.

Trends in Eastern Europe and in the CIS contrasted with those in Western countries as they had in the past. During the transition economic recession, the closure of plants, restructuring and the financial squeeze have resulted in job cuts. These cuts have affected women more than men, causing the female labour force to shrink. The experience has been varied among the countries. For example, between 1985 and 1997, the female labour force in **Hungary** fell by over one third and in **Latvia** by nearly one fourth. It also declined in those countries where the male labour force remained stable such as in **Estonia** and **Poland**, or even where it increased as in the **Czech Republic** and **Lithuania**. Not only did the proportion of women in the labour force fall, but so did their share in employment. The largest cut was in **Hungary** and the smallest was in the **Czech Republic** - but it was still larger than that of men. Only in **Slovenia** were employment cuts similar for men and women.⁽⁴⁾

The decline of the female labour force can be largely attributed to structural changes and labour market policies. Job losses in industry and agriculture were not offset by an increase in the share of female employment in services. Women were affected more than men by the large cuts in the feminized public sector. Labour market policies encouraged women to leave the labour market as their withdrawal was seen as an alternative to massive male unemployment and a solution to cuts in the child care that had been provided by the state. Also many women found their paid work uneconomical due to cuts in real wages and the rising cost of childcare. Others elected to withdraw. However the sharp decline in wages and family incomes has pushed women back into the labour market, in more precarious positions than their male counterparts.⁽⁵⁾

Discrimination against women on the labour market results in unequal access to employment. It is reflected by discriminatory practices, the wage gap, persistent segregation of female jobs at the lower end of the labour market, higher levels of women in the informal sector and higher rates of unemployment for women. All of these factors are related to the wage gap.

The ILO and its tools. A brief explanation of what the ILO is and how it works may illuminate the following discussion. The International Labour Organization was established in 1919 at the same time as the League of Nations. It survived World War II to become the first specialized agency of the United Nations system. The ILO's special characteristic is tripartism - i.e., national delegations are composed of the government as well as the representatives of the employers' and workers' organizations in each member State, all of whom have the right to participate fully in its discussions and to vote.

The ILO's principal tools have always been international labour Conventions and Recommendations, with Conventions framed as treaties that can be ratified and Recommendations serving as guidance. Once ratified, Conventions are subject to a very thorough system of international supervision, in which workers' and employers' representatives have the right to make comments on governments' reports. The ILO's principal supervisory body is the *Committee of Experts on the Application of Conventions and Recommendations*, made up of independent experts from all over the world. This Committee examines some 2,000 government reports each year on the application of ratified Conventions, and issues comments, findings and questions on their application. These comments can be followed up in public sessions of the Conference Committee on the Application of Standards, established each year at the International Labour Conference and including all three of the tripartite partners. In addition, complaints systems are provided for.

In the field of equal rights, there are two paramount Conventions. The first is the **Equal Remuneration Convention, 1951 (No. 100)** and now ratified by 146 countries. It makes operational the provision in the ILO Constitution calling for equal pay for men and women workers for *work of equal value* - a concept that goes well beyond equal pay merely for *equal work*. The other is the ILO's flagship Convention on this subject, the **1958 Discrimination (Employment and Occupation) Convention (No. 111)** which covers the promotion of equality in all aspects of employment, as well as in work outside the employment relationship. It prohibits discrimination on a wide range of grounds, covering race, colour, sex, religion, national extraction, political opinion and social origin, with the possibility of a ratifying country adding more grounds. In addition, a number of other ILO standards prohibit discrimination on various grounds, and in particular areas (social security, migrant workers, indigenous and tribal peoples, disability, et al.).

The ILO's principal concerns on human rights were consolidated into a 1998 **Declaration of Fundamental Rights and Principles at Work, and its Follow-up**. It includes a general obligation also on States which have not ratified the ILO's fundamental Conventions on freedom of association and collective bargaining, and freedom from forced labour, child labour and discrimination, to respect their basic principles while working towards ratification.

B. The Wage Gap

Wage differentials between men and women workers vary from country to country and, within a country, between the public and private sectors as well as between the different sectors of the economy. The ILO Committee of Experts has noted the wide range of this wage gap. Internationally, on average, women typically earn two thirds of male incomes. All European countries experience this pay gap, despite some progress. When the gap is small, it was achieved by only a small group of well educated women at the top of the labour market. In other instances the most progress was made in clerical jobs and for elementary occupations. In **Finland, France, Sweden** and the **United Kingdom**, women in clerical positions have wages only 3-8 percent less than men. The gap for female professions is the largest. [\(6\)](#)

Women in Eastern and Central Europe have wages approximately 20% lower than men, but prior to 1989 this gap was not very big in real terms due to the narrow wage structure. During the transition the wage gap has widened between men and women. In the **Russian Federation** in 1997, women's wages were estimated at only about 55% of male wages. In the **Czech Republic** the wage gap is largest for the most highly educated women. [\(7\)](#)

Pay disparities exist in certain sectors of the **Lithuanian** economy, such as social work, where professional women's earnings are less than 50% of those of their male counterparts. Narrow wage disparities were noted in **Bulgaria**, where women's average monthly earnings in the public sector range from 85% to 91% of men's average monthly earnings, depending upon the type of work involved. [\(8\)](#) As there tends to be greater parity between male and female wages in the public sector, layoffs in the public sector tend to have a negative impact on overall earnings of women in comparison with men, who can capture higher earnings in the private sector. Also, of course, reduced wage gaps between male and female earnings may actually camouflage women's forced exit from the labour market.

The widening of the wage gap in transition countries is of special concern against the backdrop of the steep decline in real wages, which makes women particularly vulnerable to the risk of poverty.

In order to determine the full extent of the gender-based wage differentials that may exist, the ILO Committee of Experts issued a **General Observation** in 1998 noting that in order to permit an adequate evaluation of the nature, extent and causes of the pay gap and to assess the application of Convention

No. 100, more complete information was necessary, including:

- the distribution of women by earnings levels and hours of work (classified by branch of economic activity, occupation or occupational group or level of education/ qualification, seniority, age group and number of hours actually worked or paid for; and
- statistical data on the composition of earnings (indicating the nature of earnings, such as basic, ordinary or minimum wage or salary, premium pay for overtime and shift differentials, allowances, bonuses and gratuities, and remuneration for time not worked) and hours of work.

Governments have therefore been urged to analyse the national situation to determine the extent and the nature of the pay gap, by sector if possible, as a starting point in addressing the equal pay issue. The EC Advisory Committee on Equal opportunities for women and men on Equal Pay , issued an Opinion in June, 1999 which stressed the need for greater information on existing pay structures and systems to allow comparison at sectoral and inter-sectoral levels, between socio-demographic groups and between different member states.

C. Causes of the gender pay gap

It is now recognized that the causes of pay differentials between men and women are found both within and outside the labour market. Many difficulties encountered in achieving equal remuneration are closely linked to the general status of women and men in employment and society. In order to bring about conditions favouring the application of the principle of equal remuneration, women's participation in the labour force should be promoted and they should be guaranteed equal access to jobs and occupations. The male/female wage gap has been traced mainly to the following ⁽⁹⁾:

- **Productivity-related differences in human capital.** This includes characteristics that are *acquired* such as through education, training and experience; *endowed* or innate such as dexterity, intelligence; or appear through *socialization* or *family influence* such as the tendency to be caring, cooperative, aggressive or decisive. There is little reason to expect substantial differences in between men and women with respect to *innate* characteristics, and differences in physical strength do not matter in most modern jobs. However, the *ascribed* characteristics that reflect social values or prejudices are valued differently for men and women. Those with higher investments in education, training, labour mobility and job search can legitimately expect to earn more. But such investments are generally lower for women. In other words this represents the undervaluation of women's work.
- **Differences in available jobs.** Horizontal and vertical occupational segregation of women affects their wages directly by segregating them into lower-paying jobs and indirectly by limiting them to particular occupations. Discrimination may first of all arise from the existence of occupational segregation, where certain occupational categories and jobs are reserved (usually implicitly) for women. Typically, jobs and sectors in which women are predominately employed tend to pay less than those held primarily by men. Where women and men are in practice segregated into different occupations, industries and specific jobs within enterprises, this is generally the result of strongly-entrenched historical and social attitudes. Where occupational segregation exists, women may be excluded from higher paid positions traditionally occupied by men (construction, machinists, miners, etc.) and are recruited only for traditionally feminine jobs (secretaries, typists, day care workers, etc.). Women may also be kept in lower paid positions due to the existence of vertical occupational segregation, which has the effect of keeping them in lower level positions. In virtually all countries, there is a disproportionately low number of women employed at the higher paid levels. Gender segregation remains strong

in all the European countries.

Even where women have a proportionally higher level of education, they hold a lower share of managerial and senior positions in various sectors of the economy. For example, the ILO Committee of Experts noted in 1997, that women in **Belarus** accounted for 58.6 percent of workers with a university education. They have a consistently higher level of education than men in various sectors, yet continue to hold a lower share (45.5 percent) of managerial and senior positions in various sectors of the national economy. In the industrial sector, the foremost sector of the economy, women hold only 35.9 percent of managerial posts, despite the fact that they account for 54.2 percent of employees in the sector with special technical education.

- **Differences in jobs accepted:** Due to household or family responsibilities, women may choose or be forced to accept jobs that are easier to combine with such responsibilities. For instance they tend to be in jobs where they work less overtime than do men. For the same reasons, they may go into jobs where there is relatively little loss of skills and depreciation of human capital from interruptions in working period. They may also lose benefits when these are attached to seniority based on continuous service. Women often occupy part-time positions, frequently due to family responsibilities, and this fact may contribute to wage differentials. Discrimination can be direct with part time work paying a lower hourly rate than full time work; or indirect such as in the case of the **United Kingdom**, where the ILO Committee of Experts noted that the application of the lower earnings limit (LEL) for national insurance contributions has a discriminatory impact and negatively affects women's pay, partly because women constitute the majority of part-time workers.

4. Pay structure differences or social security system. Direct discrimination has been due to differences in male and female pay structures within occupations, enterprises or sectors, whether explicit or implicit. In some countries, particularly in agriculture, collective agreements may still reflect male and female pay rates, and in some countries, differential productivity rates are set for men and women.

Three dimensions to the pay structure have been identified that are likely to influence pay equality [\(10\)](#):

- -the size and ranking of pay differentials, by industry, and by occupation (the wider the pay dispersion, the wider the gender pay gap);
- -the system of job grading or evaluation; and
- -the form of payment system (payment systems often provide scope for varying pay beyond the range implied by the basic job-grading system such as through overtime, merit and seniority pay, and such systems can camouflage real differences in amounts of pay).

The establishment of centralized minimum standards, narrow pay dispersion and transparency of pay structures have been identified as factors which could address the pay structure differences and help reduce the gender pay gap.

III. THE RIGHT TO EQUAL REMUNERATION FOR WORK OF EQUAL VALUE

Since its foundation in 1919, the ILO has concerned itself with securing the right of men and women workers to equal remuneration for work of equal value. The original text of the ILO Constitution recognized this principle to be of special and urgent importance. The principle was reaffirmed by its incorporation into ILO Convention No. 100 on Equal Remuneration, adopted in 1951, and into the 1979 UN Convention on the Elimination of all Forms

of Discrimination Against Women. The Copenhagen Programme of Action and the Beijing Platform for Action stressed the continued relevance and fundamental nature of the principle and both called on all States to ratify and apply Convention No. 100. Most recently, it was included as one of the fundamental labour Conventions underlying the principles expressed in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

It is a measure of its international acceptance that, as of September 2000, 146 //CHK//member States out of 175 have ratified Convention No. 100. It is the second most highly ratified international labour standard, and among the most highly-ratified of all international human rights standards. All of the ILO member States in Europe have ratified the Convention.

A similar importance has been placed on the principle at the level of the European Union. This was affirmed in the Treaty of Amsterdam adopted in 2 October 1997 by the European Community, that came into force on 1 May 1999. It stipulates that each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value. is applied. [\(11\)](#) This reaffirmed the 1975 European Community Directive (Directive 75/117) that enacted the principle of equal pay for equal work and work of equal value. [\(12\)](#) The European Commission also has issued a Code of Practice on Equal Pay to provide guidance to the social partners on how to implement the principle of equal pay. [\(13\)](#)

A. The Scope of Equal Remuneration

In the ILO Convention and under European treaty law **remuneration** is defined broadly as including *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*. Additional payments and fringe benefits such as uniforms, housing, travel allowances, and dependency allowances are included in the definition of remuneration; it is often in these areas where pay differentials based on sex are identified between men and women. Its scope is limited to payments by an employer.

This is not to say that all payments between men and women must be the same - for to demand this degree of equality would indeed create inefficiencies in pay structures beyond what is called for in the application of the human right of gender equality. The principle of equal pay is not called into question by the practice of paying merit bonuses or special supplements to reward seniority, productivity, or any other additional benefits as long as the criteria for paying these various bonuses and supplements are not based directly or indirectly on the gender of who is entitled to receive them. But of course in many cases they are.

[\[top\]](#)

B. The Concept of Equal Value

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. Value, while not defined specifically in the ILO Convention or European treaty law, refers to the worth of the job for purposes of computing remuneration. The ILO Convention does not limit application of the concept of equal value to implementation through the methodology of comparable worth, but it certainly indicates that something other than market forces should be used to ensure application of the principle. As detailed later in the paper, it suggests that job appraisals should be used to determine valuation where deemed useful. While job appraisal systems are still a common feature of wage setting, other bases for the calculation of wages - including minimum wages, productivity pay, and new competency-based wage systems - are covered by the principle.

C. Governments' Obligation to Ensure and Promote Application of the Principle

The ILO Convention provides that each ratifying State "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". The coverage extends to all workers without exception. The measures required by a government to meet its obligation are flexible and are dependent on the methods already in operation for determining wages or remuneration.

The Government has the obligation to ensure the application of the principle of equal remuneration where:

- -it is the employer or otherwise controls the employer; or
- -it exerts direct or indirect influence on the wage-fixing process, as when wages are fixed by statute, regulation or other government decree.

Wherever the State is not in a position to ensure the application of the principle of equal remuneration, as when it is excluded from the collective bargaining process, it must nevertheless promote application of the principle. For example, promotion may be accomplished through enforcement of legislation, requirement of pay equity plans, preparation of Codes of Practice, or undertaking surveys to identify areas of wage differentials, their causes and the ways they can be removed.

The ILO Convention provides that the principle of equal remuneration for men and women workers for work of equal value may be applied through various means, including:

- national laws or regulations;
- legally established or recognized machinery for wage determination;
- collective agreements between employers and workers; or
- a combination of these various means.

The European standard requires the principle to be included in the law and promotes collective agreements on the subject.

(i) National legislation. There has been a marked increase in recent years in the adoption of laws specifically requiring the payment of equal remuneration for men and women workers for work of equal value - for instance, the **Czech Republic** has just amended its law to specify the requirement. Interesting examples in other regions include a new **Chadian** Labour Code, which in addition to setting out the principle, also provides that the various components of remuneration must be established according to identical standards for men and for women, that professional categories and classifications and the criteria for promotion must be common to workers of both sexes, and that methods for the evaluation of jobs must be based on objective and identical criteria, based essentially on the nature of the work involved. **Guyana's** Prevention of Discrimination Act of 1997, defines equal remuneration as the rates of remuneration that have been established without differentiation based on the ground of sex and defines work of equal value in terms of the demands it makes in relation to such matters as skill levels, duties, physical and mental efforts, responsibility and conditions of work. The recent revision of equal pay legislation in **Ireland** widens the scope of the evaluation exercise for purposes of comparing men and women wages.

The legislation should be effectively implemented, and when it is violated, redress should be available through adequate and effective recourse procedures and mechanisms. The EU Advisory Committee has proposed a modification to the Directive 75/117 on Equal Pay to urge Member States to ensure that labour inspectorates or bodies with similar powers, supervise the implementation of the equal pay legislation, including the use of pay audits; and that they should receive appropriate training. Another modification proposed is to allow group actions to bring cases of violation rather than having the cases brought on an individual basis. The Advisory Committee has also proposed that workers and employers should be able to consult independent experts on equal pay in case of a pay dispute.

(ii) Machinery for wage determination. Many countries have national boards that establish minimum wages and/or issue guidelines on wage levels generally. Although not required under Convention No. 100, [\(14\)](#) minimum wages are an important means by which the Convention is applied. The composition of these boards and the criteria upon which they base their directives are relevant to the effectiveness of these bodies to promote equal pay between men and women.

(iii) Collective agreements. Indirect forms of wage discrimination have been found in collective agreements, such as the granting of benefits linked to the marital and family situation of the beneficiary or the use of "light" and "heavy" wage scales where women are placed in the light and men in the heavy without an objective evaluation free from gender bias as to the nature of the work being performed. Collective agreements have not been used as often as they could to promote equal pay for work of equal value. Interestingly, at one time many unions exercised caution in the use of wage evaluation exercises as they felt such exercises were a means of lowering wages artificially below market or negotiable rates - and to some extent this attitude continues.

The 1995 EC Code of Practice on Equal Pay aims to provide concrete advice for collective bargaining partners to ensure that the principle is applied to all aspects of pay. The Code is voluntary and is focussed on the workplace level. In particular, it aims to eliminate sexual discrimination when pay strictures are based on job classification and evaluation systems. It proposes that:

- negotiators at all levels who are involved in the determination of pay systems, whether on the side of employers or trade unions, should carry out an analysis of the remuneration system and evaluate the results in order to detect sexual discrimination in the pay structures so that remedies can be found; and
- a plan for follow-up should be drawn up and implemented to eliminate any sexual discrimination evident in pay strictures.

(iv) Cooperation with the social partners. In keeping with the ILO's tripartite structure and approach to problem-solving, **Article 4 of the Convention** requires each ratifying country to co-operate as appropriate with the employers' and workers' organizations concerned to give effect to the Convention. In addition to engaging in collective bargaining, social partners' cooperation may also take the form of participating in job evaluation design and application, and developing national wage and equal pay policies (though some trade unions try to reduce the pay gap by treating it as an issue of low pay and not only an issue of gender discrimination).

The EU Advisory Committee proposes the following action to be taken by the social partners to implement equal pay and upgrade low pay:

- *examine centralized versus decentralized bargaining.* Studies show that centralized systems of collective bargaining are more effective in tackling unequal and low pay and dismantling them can have a detrimental effect on women's pay. When decentralization occurs, measures should be examined to reduce any negative effect on the gender pay gap;

- carry out *job evaluation exercises* for both full and part-time jobs with the technical assistance of the State;
- introduce measures, including by creating special funds at the sectoral level, to *increase the pay of jobs that have been under-evaluated*; and
- revise the *balance of men and women at the negotiating table* to be more equal.

D. Job Evaluation

The ILO Convention provides that where such action will assist in giving effect to the provisions of the Convention, measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed. The adoption of the concept of equal remuneration for work of equal value necessarily implies some comparison between jobs. As men and women tend to perform different jobs, in order to eliminate wage discrimination on the basis of sex, it is essential to establish appropriate techniques and procedures to measure the relative value of jobs with varying content. The application of this concept has become known as *comparable worth*. This involves an administrative concept of the value of a job, as opposed to the economic one where the value of a job is determined by the interaction of the forces of supply and demand. The administrative concept substitutes job evaluation procedures for market forces as the appropriate mechanism for determining the value. [\(15\)](#)

(i) Job evaluation methodology. Many management consultancy firms have developed their own systems for undertaking job evaluation. A common element of all such systems is the establishment of a *job description*, which is an accurate statement of the work done by a jobholder. In the simplest form of job evaluation, a total assessment is made of the job value, without analyzing it systematically into factors - job descriptions can be used as the basis of comparisons. More usually, the system compares jobs against pre-selected factors, such as skill, effort, responsibility and working conditions, and the evaluation is based on pre-prepared job descriptions. Schemes that use factors such as these are called *analytical*, whereas schemes that make whole-job comparisons are called *non-analytical*.

In international practice, types of job evaluation are divided into ranking, classification, factor comparison, and point methods. The ranking and classification methods are non-analytical and the factor comparison and point methods are analytical. In general, it is considered that the analytical methods of job evaluation permit a more thorough comparison of the relative value of jobs. In the *factor comparison* method, a representative sample of jobs is analyzed according to the selected factors, and assessors then decide how much of the existing basic rate of pay applying to each job is applicable to each of the factors in proportion to their view of the importance of each factor in the job. In the *points rating* method, the demands of the job are broken down and a certain weight or degree point is given to different factors chosen.

The Convention does not favour any particular method of evaluation. Neither does the ILO recommend or condemn any particular method. However, it must be said that many countries have used the analytical job evaluation methodology and there is a growing consensus that it is the most practicable method of ensuring the application of the principle of equal remuneration in practice. What the Committee is most concerned about and does advocate, is that the utmost care be taken in selecting the factors to be used for comparing value, including factors sufficient to take into account the jobs of women, so that the degree of subjectivity and gender bias is minimized.

(ii) Avoidance of sex stereotyping in job evaluations. Job evaluations often rely on inherently subjective factors. This in and of itself is not a reason for not engaging in job evaluation. Any basis for determining rates of pay ultimately involves some element of subjectivity. Therefore, it is stressed that care should be taken to avoid sex stereotyping from entering the process, as this may result in an under-evaluation of tasks performed primarily by women or

those perceived as intrinsically feminine. It is therefore essential to take measures to ensure that job evaluations are done on the basis of objective criteria. These criteria should not undervalue skills normally required for jobs that are in practice performed by women, such as care-giving, manual dexterity and human relations skills, nor should they overvalue those skills typically associated with jobs traditionally performed by men, such as physical strength.

The qualities most often attributed to women - dexterity, ability to meet emotional demands in various caring functions, etc. - tend to be undervalued by society in comparison with those qualities which men are said to possess. Not surprisingly, societal values are also reflected in wage systems. In terms of their design and construction, job evaluation systems also show an obvious gender bias. Traditional schemes tend to measure only the physical and mental aspects of work and do not include factors that measure adequately certain aspects of the work such as caring or other work with people, or the requirement to organize or co-ordinate activities or people. In addition, a clear line-management bias exists in many of the factors in traditional schemes, thereby undervaluing or ignoring the support and non- managerial work often performed by women. Thus choosing the factors upon which the evaluation will be based is critical.

(iii) Undertaking job evaluation. Apart from choosing carefully the factors to be used for evaluation, a number of other measures should be taken to ensure success of the procedure. It is important that both management and workers, men and women, be involved, that they agree that one of the goals of the process is to reduce gender-based wage discrimination and that both sides have confidence in the process. In most instances, the objective of equalizing pay of men and women is one of many to be pursued in a job evaluation process. In fact, it may be that this objective is best obtained in an overall wage rationalization process, so that many of the pitfalls of undertaking a comparable worth exercise only between men and women are avoided. Adequate and appropriate training should be given to everyone involved, both management and workers, so that there is a real understanding of wage discrimination and an acceptance that it needs to be eliminated. It is generally recommended that an independent job analyst should be selected and that the analyst's recommendations be passed through a worker/employer committee for agreement and application. Finally, in establishing the job descriptions to be used, care should be taken to formulate gender-neutral titles, rather than those that pre-suppose the sex of the jobholder -for example, "sales assistant" should be used in preference to salesman or saleswoman.

(iv) Scope of comparison in job evaluation. It is evident that approaches that limit comparisons in the evaluation process to jobs in the same organization will not succeed in eliminating sex discrimination in pay: sex-segregation extends beyond any given organization, since women are concentrated in different organizations and sectors from men. The ILO Committee of Experts has stated, in this regard, that the scope of comparison should be as wide as is allowed for by the wage system in existence.

The Committee has pointed out that pay levels vary from sector to sector and are generally lowest in female-dominated sectors. This is often due to the fact that the kinds of work done in female dominated sectors, such as the textile and garment industries, is considered to be typically feminine and an extension of women's tasks in the home. Pay levels are generally higher in traditionally male-dominated sectors. Additionally, the pay gap between men and women workers is often widest in traditionally male-dominated sectors. Sector pay levels have also been noted to match the male/female domination pattern, rising and falling depending on which sex dominates the sector. For this reason, the Committee has noted the need for a system which permits the objective appraisal of jobs comparing the relative value of jobs in male and female-dominated sectors.

All other things being equal, a centralized wage-fixing system, with the broadest possible field of comparison, would appear to provide the best guarantee against wage discrimination. In fact, experience has shown that the wage gap is narrowest in those countries with a centralized wage-fixing system,

whether it is carried out through regulation or collective bargaining. By contrast, fragmented pay structures and those with wide disparities in wage bands offer greater opportunities for sex bias to be introduced into wages. Where there is a strong trend towards decentralizing wage fixing, there is an even greater value in maintaining minimum wage protection. This is particularly important for women, who comprise the majority of low-paid workers in almost all countries, and who are most likely to be paid at minimum -wage levels.

[\[top\]](#)

IV. EXAMPLES of MEASURES TAKEN to IMPLEMENT the CONVENTION

A comprehensive approach to the reduction and elimination of pay disparity between men and women involving societal, political, cultural and labour market interventions is required. The application of the principle of equal pay for work of equal value is a necessary part of such a strategy as it has advantages that non-labour market strategies appear unable to achieve on their own. In addition to legislation, the Committee of Experts has noted positive action measures taken by a number of ratifying States to implement the Convention in practice. The following are some examples.

In **Japan**, the wage gap is primarily due to the concentration of women in lower-paid positions and the lack of equal employment opportunities for women. In this regard, Japan has recently adopted the Act on Securing Equal Opportunity and Treatment between Men and Women in Employment. The Act prohibits employers from discriminating against women in recruitment and hiring, assignment, promotion and training, fringe benefits, mandatory retirement age, retirement and dismissal. In addition, Japan has abolished certain restrictions on overtime and night work by women as well as work during holidays, in order to expand women's employment opportunities and promote equal treatment of men and women workers. Recognizing that the seniority wage system is also a primary cause of the wage differential, [\(16\)](#) Japan is actively promoting various measures to harmonize working life with family life, by providing for a child care leave system and a family care leave system, to address the impact of differences in length of service due to family responsibilities on the remuneration of men and women.

Some governments have established pay equity plans or general equality plans containing an equal remuneration component designed to promote application of the principle of the Convention. For example, in **Canada**, the Pay Equity Act of 1996 requires employers with more than 50 employees to establish a pay equity plan, to be put in place within four years following the promulgation of the Act. These plans must be developed in four stages: (1) identification of predominately female and male job classes; (2) description of the job evaluation method and instruments; (3) the job evaluation exercise and determination of necessary adjustments in compensation; and (4) determination of the terms and conditions of payment. Where employers have 100 or more employees, a pay equity committee must be established. Bipartite committees may be set up to facilitate the establishment of pay equity plans in particular sectors. The Act also establishes a Committee on Pay Equity, which carries out a range of activities, including monitoring, advisory, research, promotional and regulatory functions. It may receive individual complaints and carry out non-advisory investigations on its own initiative or following a dispute or complaint involving issues of pay equity. The Committee is also authorized to settle any questions regarding pay equity between a predominately female job class and a predominately male job class in enterprises employing fewer than ten employees. Recently as a result of this initiative, Labour Canada has recently agreed to pay women working in the public service an amount of back pay to compensate them for their undervalued wages over a period of time.

Finland provides an interesting example of how the principle of equal pay for work of equal value can be pursued as a national objective, and how it can (or cannot) be adapted with the introduction of new wage systems. The Finnish example demonstrates the importance of the participation of the social

partners, of wage and equality experts and of various Ministries in order to tackle the issue effectively. First, an overall assessment of the wage classification systems, job-grading and evaluation systems across sectors was undertaken. At the same time an analysis of remuneration of men and women was undertaken and areas where there was a pay gap were identified. Job evaluation methodologies were examined. It was determined that one national evaluation methodology would not be appropriate, and it was left up to the sectors and employers which evaluation system to select. The Equality Ombudsman issued guidelines to assist employers in formulating their workplace equality plans. The guidelines explain the employer's equal pay duties and provide examples of how pay issues should be handled in equality plans. The plans formulated by employers vary, with some calling for the creation of a pay system built on job evaluations as a means to greater pay equality; some require pay analyses to be carried out at regular intervals to permit the identification and correction of pay discrimination; while others view the reallocation and reorganization of work as a method of promoting equal pay.

Some of the new approaches to gender-neutral job evaluation have conceptualized work as having human relations skills and emotional aspects, as well as mental and physical aspects. For example, a scheme developed in **New Zealand** includes three factors under the criterion of effort. The first of these - physical demand - measures the type and duration of physical effort. It measures the demands made by the strenuous or repeated use of muscles (including fine muscle movements), as well as the demands made by working in awkward or constrained body positions and/or at speed. The need to maintain muscle use over time or to maintain a constrained body position will increase the level of physical effort required. This factor thus goes beyond measuring only the degree of physical strength needed in a job and encompasses more equitably those physical demands inherent in women's work as well as in men. The second factor measures the mental demands required in concentration. It measures the intensity and frequency of this mental demand, requiring consideration of the type of work and the need for precision. The third factor measures the emotional demands made by the job, whether they occur through dealing directly with the needs of people who require care, attention, instruction or assistance or through inherently stressful and frustrating work situations, such as conflicting work assignments, inherent communication difficulties, dealing with angry, upset or difficult people, time pressure and deadlines. It is particularly evident that this last factor of emotional demands has a considerable application to many of the jobs in which women predominate. This is but one example of an attempt to avoid gender bias by extending the number of factors in an evaluation scheme to reflect also aspects of the work in which many women are involved.

In 1998, the Committee of Experts noted that **Switzerland** 's Federal Bureau on Equality between Men and Women has formulated two instruments for objective job evaluation: the analytical Evaluation of Work (ABAKABA) and Do I Earn What I Deserve? (VIWIV). The ABAKABA includes criteria such as repetitiveness and precision of movement, responsibility for the life of others, responsibility for the environment, number of work interruptions, empathy and organizational abilities. VIWIV is intended to complement the ABAKABA and allows workers themselves to assess whether or not they have experienced wage discrimination. In the **Czech Republic**, the Ministry of Labour has formulated an analytical methodology for job evaluation that includes criteria based on, inter alia, specific job requirements in terms of practical experience, dexterity, job complexity, handling of information, working activities and work relations, responsibility for damages and occupational safety and health, management requirements, physical, sensorial and neuro-psychological demands and work hazards entailed in the position.

Belgium has recently recognized the importance of improving its current job classification system. A study commissioned in 1996 by the Ministry of Employment and Work showed that, of the 141 sectoral job classifications in Belgium, only 16 percent had an analytical base. The non-analytical classification schemes were not considered to be gender-neutral. The study concluded that modernization of the sectoral classification schemes was urgently required. The 1998 Belgian Plan of Action, Investing in People and Employment, finds that women work in a restricted number of sectors and jobs, and that an important cause of inequality in remuneration can be attributed to outdated job classification schemes that do not take into account the

value of female qualifications and attributes (in jobs performed primarily by women).

Recent jurisprudence of the **German** Federal Labour Court contemplates that a higher classification should be given to jobs that, while physically lighter, entail mental and nervous strain. Moreover, the category of physically arduous work which is better paid, includes jobs that involve not only muscular, but also other strain on human beings that can result in physical reactions.

Both **Sweden** and **Denmark** have launched major campaigns to promote equal pay for work of equal value aimed at addressing problems both within and outside of the labour market.

V. THE NEED FOR A COMPREHENSIVE APPROACH

During the preparation of Convention No. 100 and its accompanying Recommendation, the International Labour Conference (33rd Session, Geneva, 1950) recognized that there are multiple and complex links between the principle of equal remuneration and the position and status of men and women more generally in employment and society. These considerations led the Conference to propose a series of measures in Recommendation No. 90 to facilitate application of the principle of Convention No. 100. (*See* Paragraph 6 of Recommendation No. 90.) Thus, social policies intended to facilitate application of the principle of equal remuneration should include measures aimed at ensuring that men and women workers have equal or equivalent facilities for vocational guidance, training and placement, equal access to jobs and occupations and welfare and social services designed to meet the needs of women workers, particularly those with family responsibilities. These broader objectives implied in application of the principle of the Convention have subsequently been incorporated into other ILO instruments such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Workers with Family Responsibilities Convention, 1981 (No. 156).

As shown in the paper, the sources of wage discrimination are many and complex. For this reason, wage discrimination cannot be tackled effectively unless action is also taken simultaneously to deal with all of its sources. As is evident from the preceding discussion, it is important to discuss equal remuneration and job evaluation in the context of a more general protection against discrimination, such as that offered in Conventions Nos. 111 and 156. Policies that deal only with labour market discrimination are inadequate, since factors arising outside the labour market (relating to traditional ideas about the role of women and the conflict between work and family responsibilities) appear to be a more significant source of pay inequality than factors that originate within the labour market. The opposite is equally true. Legislation has been a decisive factor in eliminating discrimination and in promoting the principle of equal remuneration for work of equal value, particularly in cases of direct and flagrant discrimination. But the continued persistence of the wage gap has led some governments to introduce more pro-active measures (rather than complaints-based procedures), such as requiring employers to implement and maintain pay equity plans, often negotiated with trade unions, if they are present.

Comparable worth is an important tool to combat wage inequality as it has the potential to address the wage gap in a widespread way. For some types of discrimination it is an effective remedy as well. Whether it should be mandatory as a national policy for all establishments to undertake is less certain and would depend on many factors, one of the most significant being how centralized the wage setting structure is within the country. For small business, job evaluation could be undertaken in a simplified form through an examination of the pay scale and an identification of areas where corrective action needs to be taken. What is clear is that it should be the policy, it should be applied in the public service, and it should in some way should be promoted in the private sector.

Some of the challenges facing the promotion of equal pay for work of equal value include the move towards the more competency-based wage

determination, based more on performance than job content. The manner in which equal value in terms of performance is applied will have to be determined and work is ongoing now at Harvard University with this very aim in mind. Other approaches may well emerge for new forms of work organization or wage setting. The transformation of work including the changing structure of output, changing work organization including multitasking and team working, the rise of flexible jobs and precarious contracts, changing patterns of labour mobility and the changing nature of the informal sector are the challenges to be faced in the search for how equal remuneration can be assured for all working women and men for work of equal value.

1. This paper is based on research and writing by Constance Thomas, Coordinator, Equality and Employment Branch, ILO Geneva.
2. Kroupová, Alena, *Women's Employment and Earnings in Central and East European Countries*, Background Document to ILO Tripartite Symposium on Equality of Opportunity and Treatment for Men and Women in Employment in Industrialized Countries, November, 1990, Geneva.
3. UN Economic Commission for Europe, *Regional Preparatory Meeting on the 2000 Review of Implementation of the Beijing Platform for Action*, E/ECE/RW.2/2000/2, 9 December 1999.
4. Id at p.3
5. Id at p.5
6. Id at p.6
7. Id at p.7.
8. Government reports submitted to the International Labour Office under article 22 of the ILO Constitution.
9. Lim, Lin, *More and Better Jobs for Women*, ILO, Geneva, 1996.
10. Rubery, et al, *Gender Pay Differentials*, ILO, 1998, Rubery et al, Payment structures and gender pay differentials: some societal effects, *International Journal of Human Resource Management* 8 : 3 April 1997
11. The former Article 119 of the EC Treaty of 1957 (Treaty of Rome) merely stipulated the principle of equal pay for equal work. Article 119 as a Treaty provision took precedence over any secondary legislation. Thus, it was interpreted that the principle of equal pay for equal work enshrined in the EC treaty, did encompass -by way of interpretation- the principle of equal pay for work of equal value. With the Treaty of Amsterdam of 1997, the European Community established a clear mandate to apply the principle of equal pay for work of equal value thus removing the former questions over interpretation.
12. Case 69/80, *Jenkins v. Kingsgate (Clothing Production) Ltd.* (1981) E:C:R: 911, at p. 927.
13. For a review of European experience see, Heide, Ingeborg, Supranational action against sex discrimination: Equal Pay and Equal Treatment in the European Union, *International Labour Review*, Vol. 138 (1999), No. 4.
14. There are three ILO Conventions on minimum wage fixing, Nos. 26, 99 and 131.
15. Gunderson, Morley, *Comparable Worth and Gender Discrimination: An International Perspective*, International Labour Office, Geneva, 1994.
16. In such systems, when women take leaves of absence for maternity or other family-related reasons, they often fall back to the foot of the seniority ladder, whatever their accumulated time in a job or company may be, and thus lose the promotions and salary increases that come with seniority.

Last update: