



Social standards in the context of employment and income Fact Sheet 4

Elimination of discrimination with respect to employment and occupation – ILO Co 100 and Co 101

What does Discrimination with Respect to Employment and Occupation mean?

- **Understanding what it means** - Discrimination in employment or occupation can affect men or women on the basis of their sex; sexual orientation; age; skin colour; national extraction; ethnical origin; social status; disability or disease; religion; their political opinions differ from those of others or other reasons, irrespective of their capabilities, merits or the requirements of the job. Individual merit and temporary positive discrimination (affirmative action) do not come under this term, and “where equality of opportunity is not impaired, differences in treatment do not constitute discrimination”. ILO distinguishes between *direct discrimination*, where specific groups are excluded from opportunities (e.g. women being denied land rights or bank loans) and *indirect discrimination*, when specific requirements are set up to exclude people from jobs (e.g. such as a pregnancy or HIV test) or when those who hold a part-time job are denied the same rights as fulltime workers.

As per the ILO definition, discrimination at Work translates in depriving people of their full participation and thus undermining democracy and justice.

- **Understanding what it represents** - Millions of women and men worldwide are denied access to jobs, confined to certain occupations or offered lower wages on discriminatory grounds. The discriminated are often poor, stuck in the worst jobs, and denied benefits, social protection, training, capital, land or credit. Women are more likely than men to be engaged in these more invisible and undercounted activities (e.g. paid domestic work, unpaid family work and homework). They also are more likely to accept lower wages and constitute indeed the largest group suffering from discrimination at the workplace.

Research shows a strong correlation between poverty and discriminatory practices at the work place, especially for those people who accumulate risk factors (e.g. a migrant woman who belongs to an ethnic minority, are likely to suffer from multiple discrimination and children of a woman who cannot find a decent job herself run a greater risk to become victims of child labour¹. The failure to eradicate discrimination helps therefore to perpetuate poverty.

While some forms of discrimination have become less blatant, the problem is aggravating in other areas: victims of wars or HIV/AIDS form a growing group of disabled or sick members of the workforce, especially in developing countries, whereas in the industrialised world an increasing number of elderly people encounter problems in finding a opportunities for employment. Further, although numerous jobs have been created in developing countries as a result of Globalisation, the terms and conditions in these newly created positions have constantly deteriorated. This is due to multinational companies pushing costs and risks of production down their global supply chains, at

¹see Fact sheet 3 "Effective Abolition of Child Labour"

the bottom of which stand the workers in developing countries. Women are again especially vulnerable in this scenario, since they are paid relatively lower wages and are perceived as being less likely to join Trade Union to claim any right to collective bargaining². This leads to "feminisation of labour" and is mainly taking place for low paid „informal" economy jobs.

Fighting discrimination constitutes an indispensable prerequisite for poverty reduction, sustainable development, and decent work.

What does the law say about it?

The "Elimination of discrimination with respect to employment and occupation" was declared core labour standard in the Declaration on Fundamental Principles and Rights at Work which was adopted by the International Labour Conference in June 1998.

This core labour standard is rooted in the Declaration of Philadelphia (1944) which now forms part of ILO constitution. It refers to the ILO Convention 100: [Equal Remuneration Convention](http://www.ilo.org/ilolex/english/convdisp2.htm) (<http://www.ilo.org/ilolex/english/convdisp2.htm>) and to Convention 111: [Discrimination \(Employment and Occupation\) Convention](http://www.ilo.org/ilolex/english/convdisp2.htm) (<http://www.ilo.org/ilolex/english/convdisp2.htm>)

As a consequence of the Second World War as well as the racial discrimination in the southern states of the USA and in South African Apartheid regime, a number of other international standards (see "Others links" on last page) that related to the elimination of discrimination have been created.

What is being done about it? Who are the main actors and what are their strategies?

The problem of discrimination can be tackled more effectively in the workplace than in other sectors of society. Interestingly, the ILO experience shows that the workplace - whether a factory, office, plantation, farm or household - is a strategic entry point for fighting discrimination in general. The benefits of eliminating discrimination in the workplace transcend the individual and extend to the economy and society as a whole. By bringing together people of different sex, race, age, and physical ability in a fair setting, the workplace can serve as an example for social life free of discrimination.

Laws banning discrimination are indispensable but insufficient. Eliminating discrimination starts with dismantling barriers and ensuring equality in access to training, education as well as the ability to own and use resources such as land and credit. Effective enforcement institutions, positive action, unbiased education, training and employment services, and data to monitor progress, are also necessary. This mix of policies and instruments is essential whatever the form of discrimination.

A range of interventions on different levels is advocated, planned and implemented by international organisations such as ILO, national governments, trade unions, employers' associations, and by civil organisations:

- **Knowledge** - To establish a suitable database of workplace discrimination, significant indicators must be developed and monitored. For example, in the field of gender related discrimination, ILO is gathering data across the world about labour force participation rates, unemployed rates, remuneration, and type of jobs performed by women. Through pilot programmes in its decent work agenda (such as in Ghana), the organisation tries to better understand the link between discrimination and poverty, and to include its decent work agenda into [Poverty Reduction Strategies](http://www.ilo.org/public/english/bureau/integration/departme/national/prsp/) (<http://www.ilo.org/public/english/bureau/integration/departme/national/prsp/>)
- **Effective Legislation and Public Procurement** - National governments play a key role in the elimination of discrimination and the realisation of equality at work. Legislation on the level of the

² See Factsheet 1 " Freedom of Association and the Effective Recognition of the Right to Collective Bargaining"

constitution or labour laws, or specific non-discrimination and equality laws are a prerequisite for their enforcement at the workplace. A shift is occurring from laws that prohibit and prosecute discrimination, to laws that promote equal opportunity. ILO offers services to governments that want to improve their legislation, to establish labour inspectorates or specialised monitoring and enforcement bodies.

Public procurement policies can be another powerful instrument to tackle discrimination. In South Africa, for example, the Preferential Procurement Policy Framework Act of 2000 establishes a system whereby points are allocated for specific goals, such as contracting with categories of persons which are rendered historically disadvantaged on the basis of race, gender or disability.

- **Affirmative action** - The expression “affirmative action” refers to a coherent package of measures, of a temporary character, aimed specifically at correcting the position of members of a target group in one or more aspects of their social life, in order to obtain effective equality (ILO, 2003). For example, women belonging to a national minority are invited to apply for a vacant post to encourage under represented groups to join an organisation. A women belonging to a minority and a men not belonging to it are interviewed and the best candidate irrespective of their ethnic background gets the job.

A temporary nature characterises these measures in most countries, but there are exceptions in countries with deep-rooted inequalities, such as in India where a Reservation Policy exists to reserve seats in educational institutions, government jobs, and elected political bodies to the traditionally disadvantaged members of scheduled castes and tribes. Even within this constitutional long-term measure, the list of groups which are entitled to reservation policies is periodically reviewed.

- **Equal remuneration** - Research has proven that minimum wage policies tend to benefit groups which are endangered of discrimination, such as women and members of ethnic minorities. Whereas in most transitional countries the income gap between different groups of workers has widened with economic liberalisation, some other countries, such as Poland, have been able to maintain relatively equal wages thanks to a minimum wage policy. In developing countries, some evidence suggests that setting a minimum wage can also be used as reference earnings target for workers in the informal economy.

- **Business case** - Some companies in the industrialised North have recognised the business case for family-friendly workplaces, which help to retain the investments made in female employees. There is also a growing public pressure to include provisions of equal chances and non-discrimination into the codes of conduct multinational companies apply across their international supply chains. This is done so, since reducing the burden of female workers is likely to translate into better physical well-being and education of their children, who represent the future labour force.

In the link to main actors, you can find additional details on certain aspects of discrimination and the strategies undertaken to tackle them.

Where to learn more from?

Links to main actors

International organisations:

- § UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: <http://www.un.org/WCAR/>
- § Women Watch: <http://www.un.org/womenwatch/daw/>
- § UNIFEM – United Nations Development Fund for Women: www.unifem.org
- § UNRISD – United Nations Research Institute for Social Development: www.unrisd.org – sub section on gender
- § UN Global Compact: www.unglobalcompact.org

National government institutions, e.g.:

- § U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov/>
- § Eidgenössische Kommission gegen Rassismus: <http://www.edi.admin.ch/ekr/index.html?lang=de>

Representation of workers and employers' associations:

- § Public Services International (Representing Public Sector Unions Globally) campaign on “Equality, Equity and Diversity”:
<http://www.world-psi.org/Content/NavigationMenu/English/Campaigns/Campaigns.htm>
- § INSPIR – Inter-American Trade Union Institute for Racial Equality (strategies against the widening inequalities between blacks and whites): www.inspir.org.br (Portuguese language)
- § CIPE – Center for International Private Enterprise (supporting networking of women in business): www.cipe.org
- § ETI – Ethical Trading Initiative (code of conduct deals with discrimination): www.ethicaltrade.org

Civil society organisations and research sites:

- § Business & Human Rights Resource Centre: <http://www.business-humanrights.org>
- § Association for Women' Rights in Development (AWID): <http://www.awid.org/#>
- § Women Working Worldwide: <http://www.poptel.org.uk/women-ww/>
- § Disabled People International: <http://www.dpi.org/>
- § Inclusion International: <http://www.inclusion-international.org/>

Links to other related documents

- § ILO (2003), Time for Equality at Work, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I (B), International Labour Conference 91st session: http://www.ilo.org/dyn/declaris/DECLARATIONWEB.GLOBALREPORTDETAILS?var_language=EN&var_PublicationsID=116&var_ReportType=Report#
- § UNRISD (2005), Gender Equality – Striving for Justice in an unequal world, Geneva: <http://www.unrisd.org/research/gender/report>
- § World Economic Forum (2005), Women's Empowerment: Measuring the Global Gender Gap: <http://www.weforum.org/site/homepublic.nsf/Content/Global+Competitiveness+Programme%5CWomen%27s+Empowerment%3A+Measuring+the+Global+Gender+Gap>
- § ILO (2005), Indigenous and Tribal Peoples: an Ethnic Audit of Selected Poverty Reduction Strategy Papers: <http://www.ilo.org/public/english/standards/norm/egalite/itpp/activity/cameroon/tchoumba.pdf>
- § Human Rights Watch (2001), Caste Discrimination: A Global Concern: <http://www.hrw.org/reports/2001/globalcaste/>

Other links - International standards relating to the elimination of discrimination

- § UN International Convention on the Elimination of All Forms of Racial Discrimination, 1965: <http://www.ohchr.org/english/law/cerd.htm>
- § UN Convention on the Elimination of All Forms of Discrimination against Women, 1979: <http://www.un.org/womenwatch/daw/cedaw/>
- § ILO Indigenous and Tribal Populations Conventions (C107, 1957 and C169, 1989) <http://www.ilo.org/ilolex/english/convdisp2.htm>