



Governing Body

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Committee on Legal Issues and International Labour Standards

LILS

FOR DEBATE AND GUIDANCE

FIFTH ITEM ON THE AGENDA

General status report on ILO action concerning discrimination in employment and occupation

Overview

Issue covered

This paper presents some of the strategies developed and implemented with ILO constituents to address discrimination and promote equality in employment and occupation, focusing on a number of groups and thematic areas.

Policy implications

Debate will inform future ILO policy in this area.

Financial implications

None.

Action required

The Committee is invited to take note of the information contained in this document and to provide any guidance it considers appropriate with a view to strengthening further ILO action to combat discrimination in employment and occupation.

References to other Governing Body documents and ILO instruments

GB.256/13/24; GB.259/LILS/6/6; GB.259/LILS/7/5; GB.304/PFA/2(Rev.) and GB/309/5.

Conventions Nos 97, 100, 111, 143, 156, 159, 169 and 183, and Recommendation No. 200.

Introduction

1. ILO action towards the elimination of discrimination in employment and occupation is firmly inscribed in the Organization's Strategic Policy Framework 2010–15 and the Programme and Budget for 2010–11.¹ It is also in line with its constitutional mandate and confirmed by the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization. It is central to the Global Jobs Pact which calls for vigilance to achieve the elimination of discrimination, and highlights the need to address the situation of vulnerable groups most hit by the crisis.²
2. As in previous years,³ this report highlights the strategies developed and implemented with ILO constituents to address discrimination and promote equality in employment and occupation, paying attention to certain thematic areas on which the ILO has been particularly focusing. Given the range of ILO action in this area, the information presented is only illustrative.

ILO action concerning discrimination: A rights-based approach

Promoting relevant ILO standards

3. Promoting the ratification of Conventions relevant to equality and non-discrimination remains an important strategy to encourage action at the national level. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951 (No. 100), have now been ratified by 169 and 168 member States, respectively. In line with the conclusions on gender equality at the heart of decent work, adopted by the International Labour Conference in 2009, the Office is working towards universal ratification of Conventions Nos 100 and 111, and improved ratification of two other key equality Conventions – the Workers with Family Responsibilities Convention, 1985 (No. 156), and the Maternity Protection Convention, 2000 (No. 183).
4. Ratification of ILO Conventions regarding migrant workers and indigenous and tribal peoples, as well as those addressing people with disabilities, is an important step towards better protection against discrimination of these groups. Technical advice to the Central African Republic and Nicaragua resulted in the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), by both countries in August 2010. Technical assistance to Afghanistan led to the ratification of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), in April 2010.
5. The Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards continued to provide valuable

¹ See GB.304/PFA/2(Rev.) and ILO: *Programme and Budget for the biennium 2010–11*, Geneva, 2009, paras 336–347.

² ILO: *Recovering from the crisis: A Global Jobs Pact*, International Labour Conference, 98th Session, Geneva, 2009, paras 12(2) and 14(1)(i).

³ GB.256/13/24; see also GB.259/LILS/6/6 and GB.259/LILS/7/5. ILO action concerning discrimination has been considered by the Committee on Legal Issues and International Labour Standards since 1993.

guidance to the ILO constituents and the Office in identifying and prioritizing issues to be examined and action to be considered in the context of Conventions relevant to non-discrimination. In June 2010, the Conference Committee discussed the application of Convention No. 100 by India, of Convention No. 111 by the Czech Republic, Islamic Republic of Iran and the Russian Federation, and of Convention No. 169 by Peru.

6. Domestic workers, most of whom are women and girls, and also often migrants or members of historically disadvantaged groups, are particularly exposed to multiple forms of discrimination in respect of conditions of employment and work. Recognizing their need for enhanced protection, the Conference held in June 2010 its first discussion on decent work for domestic workers with a view to adopting a comprehensive standard (a Convention supplemented by a Recommendation) in 2011.⁴
7. A large number of ILO member States have ratified relevant United Nations (UN) human rights treaties. The complementarities of ILO and UN standards have offered an opportunity for the Office to cooperate with UN Country Teams to support national and regional efforts to address discrimination and inequalities. In addition to the close cooperation on the application of relevant ILO standards with the UN human rights treaty bodies, joint activities have continued with the UN and the European Commission particularly with respect to migrant domestic workers.

Towards effective national laws, policies and institutions

8. The development and implementation of effective anti-discrimination and equality legislation and policies, and the establishment of effective national institutions, are essential to making progress in the elimination of discrimination in the labour market. The Office continued to support efforts in this regard through legislative assistance, research, the preparation of guides and practical tools, the facilitation of training workshops for constituents, and the promotion of social dialogue on equality issues.⁵
9. Since the last report on this item, the Office has provided comments on draft legislative provisions on equality and non-discrimination to Armenia, China, Comoros, Kazakhstan, Mongolia, Mozambique and Tajikistan, among others. The Office also provided extensive comments on a draft common labour legislation guide for the Gulf Cooperation Council.
10. In Ukraine, the Office supported a high-level tripartite round table at the Parliament to discuss comments of the Committee of Experts on Conventions Nos 100 and 111 with a view to improving national legislation. The event involved Members of Parliament, representatives from government, trade unions and employers' associations, international and non-governmental organizations, and academics. The Parliamentary Committee on Social Policy and Labour endorsed the recommendations proposed for further action, and a tripartite working group was set up to prepare amendments to the national legislation on equality.

⁴ ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, Geneva, 2010; and ILO: *Decent work for domestic workers*, Report IV(2), International Labour Conference, 99th Session, Geneva, 2010. On the basis of the first discussion by the Conference and taking into account the replies received to the questionnaire contained in Report IV(2), the proposed texts of the instruments are published in ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 100th session, Geneva, 2011.

⁵ A list of selected publications, working papers and tools is appended.

11. The expertise of the International Training Centre of the ILO in the area of discrimination has been gaining growing recognition, and non-discrimination and equality remain key subjects covered in a wide range of courses. A new module on discrimination and social protection was designed for the annual course “Tackling discrimination at work: From theory to practice”, which this year, in addition to gender discrimination, paid particular attention to discrimination against migrant workers, persons with disabilities and persons living with HIV/AIDS.
12. Within the framework of PAMODEC,⁶ 11 national studies on the existing framework for the elimination of discrimination in employment have now been completed, and validated at national workshops with a view to adopting national action plans.
13. In China, the ILO and the Ministry of Human Resources and Social Security continued to implement the project Support to Promote and Apply ILO Convention No. 111, a major output of which is the participatory and interactive training package “Equality and non-discrimination at work in China: Training manual”, covering different forms of discrimination in China.
14. The Office has been working to raise awareness on the central role of non-discrimination in sustainable enterprise development through various activities. The ILO Helpdesk for Business on international labour standards answered questions from company management and workers, as well as employers’ and workers’ organizations, concerning the application of the principles contained in international labour standards, including questions related to non-discrimination, sexual harassment, equal pay, and protection of the rights of migrant workers.
15. With a view to measuring progress made in decent work, including in achieving equality of opportunity and treatment, the Office has prepared decent work country profiles for Austria, Brazil and the United Republic of Tanzania.⁷ The profiles provide statistical indicators and systematic information on rights at work, and take into account the comments of the ILO’s supervisory bodies. Gender equality is a cross-cutting concern and specific chapters are directly related to discrimination in employment.

Specific focus areas

Gender equality

16. ILO action on gender equality is now firmly integrated in the ILO Action Plan for Gender Equality 2010–15⁸ which emphasizes the cross-cutting nature of gender equality in all strategic ILO objectives.
17. Gaining a better understanding of the ILO standards relevant to gender equality has been the focus of regional workshops and national studies, particularly in the Arab States. The regional workshop in Cairo led to improved knowledge of key ILO standards relevant to gender equality, and practical ways to implement them in the countries concerned.

⁶ *Projets d’Appui à la Mise en Œuvre de la Déclaration*, a support programme for the implementation of the ILO Declaration on Fundamental Principles and Rights at Work.

⁷ See www.ilo.org/integration/themes/mdw/lang--en/index.htm.

⁸ ILO: “ILO Action Plan for Gender Equality 2010–15 Phase I: Aligned with Programme and Budget 2010–11” (Geneva, 2010).

Activities to promote Conventions Nos 156 and 183 have covered support to sensitization campaigns for trade unions, information materials, consultations with constituents and collaboration with relevant UN agencies.

18. ILO action to strengthen the capacity of workers' and employers' organizations to promote gender equality has continued, including through support to national studies in 11 countries on gender equality in social dialogue and collective bargaining, and action aimed at strengthening women's negotiation skills. In India, training provided under the ILO Project on Organizing and Empowering Women Workers in the Informal Economy resulted in collective action and negotiation on wage increases and enhanced capacity of rural women and trade unions to address women workers' rights.
19. Inequalities in remuneration between men and women remain a persistent problem. The ILO's *Global Wage Report 2008–09*, and its update, pay particular attention to the gender pay gap. Current research on low pay aims at identifying groups and categories particularly affected, including women. The ILO guide *Promoting equity: Gender-neutral job evaluation for equal pay: A step-by-step guide* has been translated into eight languages and used in different training workshops worldwide.
20. The Office has continued to expand its legal knowledge base on gender equality, including work and family issues and maternity protection. The ILO database concerning conditions of work and employment laws now offers comprehensive legal information on working time, minimum wages and maternity protection regarding over 100 countries, and includes information on paternity leave and parental leave provisions.⁹
21. ILO action concerning discrimination of domestic workers has been particularly visible in Asia, where activities have been accommodated within the Decent Work Country Programme priorities of a number of countries. Support to national consultation processes on decent work for domestic workers has strengthened the capacity of constituents in the region to engage in international standard-setting processes. *Domestic work – Decent work: A “smart guide” for domestic workers in Thailand* was published in a variety of local languages and widely disseminated in Thailand, Cambodia and the Lao People's Democratic Republic.
22. The Office continued its UN inter-agency collaboration to promote gender equality in the world of work,¹⁰ including participation in the 15-year review process of the Beijing Declaration and Platform for Action at the 54th Session of the Commission on the Status of Women.¹¹

Discrimination based on race and ethnicity

23. Since the last report on this item, most of ILO action addressing discrimination in the world of work on the basis of race or ethnicity has been developed through activities in respect of certain groups particularly vulnerable to multiple discrimination, such as migrant workers, indigenous and tribal peoples and certain groups of women workers, in

⁹ The database can be consulted on the Internet at www.ilo.org/dyn/travail/travmain.home.

¹⁰ See also C. Gaynor: *ILO and UN inter-agency collaboration: Promoting gender equality in the world of work*, ILO Bureau for Gender Equality Working Paper 1/2010, ILO, Geneva, 2010.

¹¹ Resolution 54/4 on women's economic empowerment, adopted by the Commission on the Status of Women at its 54th Session, calls upon States to take effective measures to ensure application of the principles of Conventions Nos 100, 111 and 156.

particular domestic workers. In addition, the Office has focused on expanding its knowledge base on existing and emerging forms of racial and ethnic discrimination in light of the forthcoming Global Report on discrimination in employment and occupation.

24. The Office has continued to engage with relevant international and regional bodies, including the United Nations Committee on the Elimination of Racial Discrimination, and the Inter-Agency Working Group on Minorities. The Office also actively participated in the Seventh Session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action which discussed extensively issues relating to migration and employment.

Migrant workers

25. Through its technical cooperation activities on labour migration in Africa, Central Asia and South America, the Office has continued to support the ratification and implementation of ILO Conventions concerning migrant workers.¹² Such action has involved advocacy with government officials, social partners and civil society organizations, as well as discussions on prospects of ratification.
26. Assisting countries in developing labour migration policies based on a rights-based approach helps to improve the human and labour rights of migrant workers, including their right to be free from discrimination. Often in collaboration with other international agencies, and with the social partners, the Office has provided such assistance, including to Cambodia, Nigeria, Sri Lanka, United Republic of Tanzania and Zimbabwe. In Sri Lanka this resulted in the adoption of a formal national labour migration policy framework based on ILO standards.
27. In the African region, the Office is implementing the Project on Extending Social Security for Migrant Workers in Africa, the objectives of which include promoting equality of treatment of national and non-national workers under the social security legislation.
28. In Israel, action by the Office in cooperation with the International Trade Union Confederation to promote migrant workers' rights has been instrumental in Histadrut changing its constitution to allow migrant workers to join their organization and become eligible for trade union functions. Further support is provided through follow-up seminars for Histadrut officials.
29. In partnership with other international organizations and funds, the ILO developed a Joint Migration and Development Initiative related to discrimination based on national origin, as well as the inter-linkages with other grounds of discrimination to which migrant workers are often subjected. The Office has also continued its cooperation with the Association of Southeast Asian Nations (ASEAN) Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

Indigenous and tribal peoples

30. Indigenous and tribal peoples continue to face multiple forms of discrimination. ILO action in this area, spearheaded by the Programme to Promote ILO Convention No. 169 (PRO 169), has continued to focus on capacity-building activities on indigenous peoples' rights, particularly those enshrined in Conventions Nos 111 and 169, in Asia, Africa and

¹² The Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

Latin America. Training materials, manuals and publications have also been developed and disseminated for this purpose.

31. In Cameroon, ILO action is focusing on including indigenous peoples' rights in national policies, including the poverty reduction strategy. In Cambodia, the Office has continued to support the Government in improving protection of indigenous peoples' rights through legislation, promoting greater consultation and inclusion in decision-making. In the Philippines, the Office contributed to the census on indigenous peoples, considered to be a milestone in enabling these peoples to be counted and become visible in national population surveys. In Nepal, a large-scale programme is in place to assist the implementation of Convention No. 169. In collaboration with the Judicial Academy of Chile, the Office held a training seminar for judges and a series of awareness-raising workshops on Convention No. 169 involving civil servants, judges, representatives of various indigenous populations and academics.
32. A seminar in Dhaka aimed at promoting and implementing Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples. In Cambodia, the participants shared experiences and identified challenges relating to indigenous peoples' traditional livelihoods, focusing on the promotion and implementation of ILO Conventions Nos 111 and 169. A technical meeting was held with the Working Group on Indigenous Communities/Populations of the African Commission on Human and Peoples' Rights to discuss follow-up to research findings regarding the protection of indigenous peoples in 24 African countries. Training modules were developed and used during a subregional seminar in Yaoundé.
33. The Office continued to engage with relevant international and regional bodies and mechanisms, including the UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the UN Inter-Agency Support Group on Indigenous Issues. At the national level, the ILO is leading the theme group on indigenous peoples of the UN Country Team in the Philippines under UNDAF to pursue common objectives in promoting and protecting the rights of the indigenous peoples.

Workers with disabilities

34. Convention No. 159 has been ratified by 82 member States and ILO action to promote its ratification has continued. The growing consensus among ILO constituents on the need to promote equal employment opportunities for people with disabilities is noted in the increasing number of Decent Work Country Programmes that address these workers.
35. The Office has continued its partnership with the UN and its specialized agencies, including the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities. It has also worked within the UN Country Teams on including disability in poverty reduction and development programmes.
36. ILO action on workers with disabilities has been mainly developed through the project on Promoting the Employability and Employment of People with Disabilities through Effective Legislation. For instance, in China, the Office, with the involvement of tripartite constituents and the China Disabled Persons' Federation, is providing technical comments for the amendment of the Tax Preferential Policy for Chinese entrepreneurs hiring persons with disabilities.
37. Action under the project on Promoting Decent Work for People with Disabilities through a Disability Inclusion Support Service (INCLUDE) has continued and ten fact sheets on

inclusion of people with disabilities are now available for selected countries in Asia and Africa.

38. Portraying people with disabilities with dignity and respect in the media can help promote more inclusive and tolerant societies and stimulate a climate of non-discrimination and equal opportunity. The *Media guidelines for the portrayal of disability: Decent work for people with disabilities* is a new ILO tool providing practical advice for professional communicators in this regard.

Discrimination based on real or perceived HIV/AIDS status

39. The adoption of the Recommendation on HIV and AIDS and the World of Work, 2010 (No. 200) by the Conference in June 2010 symbolizes a major step forward towards the enhanced protection of people living with HIV and AIDS around the world. The Recommendation emphasizes the importance of countering discrimination and promoting equality of opportunity and treatment in employment or occupation on the basis of HIV status, whether real or perceived. It also calls upon governments to consider, in consultation with organizations of employers and workers, affording protection equal to that available under Convention No. 111.¹³ The development of materials and advocacy tools on Recommendation No. 200 has begun.¹⁴
40. Action to promote the ILO code of practice on HIV/AIDS and the world of work has continued, particularly in India, Indonesia and Zambia. Spearheaded by the ILO Programme on HIV/AIDS, technical assistance to constituents in the form of legislative or policy advice, training and capacity building, and research continued in a number of countries.
41. The Office also continued to deliver training and technical assistance to employers' organizations on protection of employment rights for people living with HIV/AIDS. In Suriname the ILO conducted a workshop for the members of the Suriname Business Coalition aimed at building skills for HIV workplace policy review and implementation, with a focus on HIV-related stigma and discrimination.
42. The ILO has been partnering extensively with the transport sector in Paraguay to eradicate discrimination based on real and perceived HIV status and on sexual orientation. The Project on Reducing Stigma and Discrimination and Promoting Tolerance through HIV/AIDS Awareness-Raising Campaigns in Three Pilot Regions in the Russian Federation aims to empower ILO constituents to ensure tolerance towards HIV-positive people in the workplace.

Situation of workers of the occupied Arab territories

43. As in previous years, the Director-General fielded a high-level mission to the occupied Arab territories and submitted a report on the situation of Arab workers of these territories

¹³ See Paragraphs 9–14 of Recommendation No. 200; the ILO resolution concerning the promotion and the implementation of the Recommendation on HIV and AIDS and the World of Work, 2010 (No. 200), calls for the adoption of a Global Action Plan and specifically invites the Governing Body to promote to member States the extension under Article 1(1)(b) of Convention No. 111 so that the protection afforded under that Convention is extended to real or perceived HIV status.

¹⁴ See GB.309/3/2.

to the Conference in 2010. The ILO also pursued its technical cooperation activities in support of its Palestinian constituents.¹⁵

44. The 2010 mission of the Director-General, while noting some economic improvement in the Occupied Palestinian Territory, found new uncertainties with respect to freedom of movement and residency of Palestinians, continuing discrimination and displacement of workers and their families in East Jerusalem and an enduring economic and social crisis in Gaza, the closure of which is undermining future prospects of workers and their families.
45. Abundant information was received by the mission suggesting that violations of labour rights of Palestinian workers employed in Israeli settlements in the Occupied Palestinian Territory remain widespread. Restrictions on movement continue to impact seriously on the enjoyment of human rights of Palestinians, including the right to education and the right to work.
46. The mission found that Syrian Arab citizens living in the occupied Syrian Golan continue to suffer from discriminatory measures by Israeli authorities, impeding their movement and access to land and water.

Concluding remarks

47. The need to address discrimination and promote equality in employment and occupation is widely recognized among ILO constituents and in the ILO's operational agenda. The number of countries that have included issues of equality and non-discrimination as a priority in their Decent Work Country Programme is steadily increasing. Important progress is being made towards the adoption of new ILO standards relevant to the elimination of discrimination and promotion of equality of groups particularly at risk. The starting point for effective ILO action remains relevant ILO standards and comments of the supervisory bodies, supplemented by action-oriented research, capacity building and the development of practical tools.
48. The Committee is invited to take note of the information contained in this document and to provide any guidance it considers appropriate with a view to further strengthening ILO action to combat discrimination in employment and occupation.

Geneva, 27 October 2010

Submitted for debate and guidance

¹⁵ ILO: *The situation of workers of the occupied Arab territories, Report of the Director-General, Appendix*, International Labour Conference, 99th Session, Geneva, 2010; and GB/309/5.

Appendix

Selected publications and working papers

- Buckup, S. 2009. *The price of exclusion: The economic consequences of excluding people with disabilities from the world of work*, Employment Working Paper No. 43 (Geneva, ILO).
- Chicha, M.-T. 2009. *Promoting equity: Gender-neutral job evaluation for equal pay: A step-by-step guide* (Geneva, ILO).
- Devasish, R.; Henriksen, J.B. 2010. *Inclusion of indigenous peoples' rights in the new Constitution of Nepal*, Brochure (Geneva, ILO).
- ; —. 2010. *Relevant constitutional provisions in other countries and safeguards on indigenous peoples' right in other laws: Addendum*, Brochure (Geneva, ILO).
- Gaynor, C. 2010. *ILO and UN inter-agency collaboration: Promoting gender equality in the world of work*, ILO Bureau for Gender Equality Working Paper 1/2010 (Geneva, ILO).
- Henriksen, J.B. 2008. *Research on best practices for the implementation of the principles of ILO Convention No. 169: Key principles in implementing ILO Convention No. 169, Case study No. 7* (Geneva, ILO).
- International Labour Office (ILO). 2009. *Domestic work – Decent work: A “smart guide” for domestic workers in Thailand* (Bangkok, ILO Subregional Office for East Asia).
- . 2009. *Gender equality at work in Arab States*, Brochure (Geneva).
- . 2009. *Guidelines on gender in employment policies: Information resource book* (Geneva).
- . 2010. *Extending the scope of application of labour laws to the informal economy: Digest of comments of the ILO supervisory bodies related to the informal economy* (Geneva).
- . 2010. *International labour migration: A rights-based approach* (Geneva).
- . 2010. *Monitoring indigenous and tribal peoples' rights through ILO Conventions: A compilation of ILO supervisory bodies' comments 2009–10* (Geneva).
- . 2010. *Women in labour markets: Measuring progress and identifying challenges* (Geneva).
- . 2010. *Gender mainstreaming strategies in decent work promotion: Programming tools (GEMS Toolkit)* (Bangkok, ILO Regional Office for Asia and the Pacific).
- . 2010. *Media guidelines for the portrayal of disability: Decent work for people with disabilities*, Brochure (Geneva).
- Vachararutai, B. 2010. *Domestic workers in Thailand: Their situation, challenges and the way forward* (Bangkok, ILO Subregional Office for East Asia).