



## EIGHTH ITEM ON THE AGENDA

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

1. ILO action to eliminate discrimination and promote equality of opportunity and treatment in employment and occupation is based on the ILO Constitution, the two ILO Conventions considered fundamental with regard to the elimination of discrimination – the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Equal Remuneration Convention, 1951 (No. 100) – and the 1998 Declaration on Fundamental Principles and Rights at Work, as well as other ILO standards whose objectives include the prevention of discrimination in employment and occupation. As in previous years, the report contains a brief overview of ILO activities during 2004 aimed at preventing discrimination in employment and occupation. Due to space limitations, it was not possible to include all activities, but an attempt has been made to provide at least an indication of the types, range and, where possible, the impact of these activities.

**I. General activities**

2. As in previous years, the Committee of Experts on the Application of Conventions and Recommendations (CEACR), at its 2004 session, noted the progress made by ratifying States in the adoption of comprehensive legislation prohibiting discrimination, including wage discrimination. Moreover, in response to the Committee's 2003 general observation on Convention No. 111, an increasing number of governments reported measures taken, including legislation, to combat sexual harassment in the workplace. Measures to combat discrimination on the basis of age, disability, HIV/AIDS status or other grounds also continued to be reported upon by governments. The Committee also noted with interest measures taken by some governments to increase the capacity of labour inspectors and enforcement bodies to address wage inequalities and to ensure the application of the principle of equal remuneration for men and women for work of equal value. Nevertheless, the Committee continued to express concerns over persistent discrimination in particular on the basis of sex, race, national extraction, religion, political opinion and social origin in countries throughout the world. It drew attention to the persistence of wage disparities between men and women and encouraged governments to assess the effectiveness of the measures taken to eliminate discrimination in employment and occupation.
3. During 2004, technical assistance and advice led to new ratifications in a number of countries, while in others prospects for ratification were promising (see also below under

heading II, Specific areas). For example, the Office continued its technical assistance to China, which is considering the ratification of Convention No. 111, and in November 2004, the Government submitted a recommendation to the Standing Committee of the National People's Congress (NPC) for its ratification.

4. With the rising number of ratifications of these two fundamental Conventions, ILO action is increasingly focusing on better application. ILO advice on labour law reform continues to pay attention to workplace discrimination on, inter alia, the basis of race, disabilities and HIV/AIDS. The Office, often in cooperation with the Turin Centre, continues to organize regional and subregional seminars that cover discrimination issues, for example, in Gabon, Senegal and Thailand, to promote international labour standards and the ILO Declaration. In 2004, the Turin Centre organized its interregional tripartite course on international labour standards, equality in employment, and workers with family responsibilities. ILO equality standards, sexual harassment and the integration of a gender perspective in the work of labour courts are now an integral part of the Turin courses for judges, legal practitioners and educators. The success of the training delivered to labour court judges by the Office itself, for example through workshops in Kenya and Nigeria, is demonstrated by a readiness to cite ILO standards in judgements and awards. Following such training, the judiciary in India and Pakistan is giving renewed attention to equal remuneration issues.
5. Follow-up by the Office of the Global Report on *Time for equality at work* continued in 2004 with national and regional workshops on discrimination. For example, in Mali, the Programme for the Realization of the Declaration on Fundamental Principles and Rights at Work (PAMODEC), organized a capacity-building workshop with employers' organizations on non-discrimination, pay equity and collective bargaining; and a workshop on normative action and fundamental principles and rights for labour lawyers and judges. The fourth annual Japan/ILO/US Asian Pacific Regional Seminar on the ILO Declaration (Bangkok, May 2004) focused on managing disability at the workplace, addressing pay equity and protecting migrant workers; and a meeting of legal experts from South Eastern Europe on the issue of non-discrimination was organized in Dubrovnik (May 2004) by the ILO. Taking into account principles developed by the ILO Committee of Experts and significant decisions of the European Court of Justice in this domain, the meeting permitted an exchange of views on different legal and institutional approaches and on how national practice could be improved.
6. The linkages between labour market discrimination, forced labour and/or child labour are increasingly taken into account in the Office's activities, especially those addressing discrimination against certain ethnic minorities, migrant workers, indigenous and tribal peoples, and lower castes. For example, because of the close linkage between child labour and gender discrimination, child domestic work – in which girl children are predominant – was the topic for the 2004 World Day against Child Labour. The International Programme on the Elimination of Child Labour (IPEC), is also undertaking pilot studies and activities looking into the linkage between child labour and discrimination against indigenous and tribal peoples in, among others, Costa Rica, India, Nepal, Pakistan, Peru and the Philippines. In South Asia, the Office continued its action against bonded labour targeting those members of society who suffer discrimination in all aspects of their lives. For example, in Nepal, activities to rehabilitate the former *kamaiya* households living in western Nepal, resulted in their increased membership of trade unions and payment of minimum wages to at least 80 per cent of both female and male agricultural labourers in project districts. In Pakistan, where the majority of bonded labourers belong to the scheduled castes, most attention has been directed to assisting the Ministry of Labour to implement the national policy and plan for the abolition of bonded labour. As a result, the issue has received recognition and visibility and strategic linkages and partnerships have been formed. In Latin America, studies highlighting the linkage between forced labour and discrimination against indigenous peoples have resulted in a national tripartite meeting in

Bolivia (August 2004) which requested ILO technical assistance for the design and implementation of a national strategy to eliminate forced labour, with particular attention to linkages between forced labour and ethnic discrimination. As a first step, a National Commission for the Eradication of Forced Labour was created.

## II. Specific areas

### A. Gender equality

7. The Office continues to promote gender mainstreaming in ILO programmes and projects, and building capacity of ILO staff and constituents. Coordinators of some 15 projects in Africa, Asia and Latin America under the ILO/Netherlands Partnership Programme met in August 2004 to share knowledge of good practices in the use of gender mainstreaming tools. Examples of such tools developed in 2004 include “Gender equality and child labour: A participatory tool for facilitators” and “Social dialogue and poverty reduction strategies: a guide to the integration of gender equality”, a practical kit for use in PRSP development which has already been used in Ecuador, Ethiopia and Peru. Promoting gender mainstreaming by building capacity on concepts and familiarity with the ILO policy on gender and resources were some results achieved in the gender audits held for the Staff Union and IPEC, the ILO offices in Colombo and Jakarta, and the ILO Subregional Office for Southern Africa in Harare. For the first time, audits were conducted for ILO constituents in Sri Lanka and for UN system agencies in Zimbabwe.
8. Gender equality is also taken into account in the Office’s advice on legislative reform. Advice on legislative texts creating tripartite bodies has stressed the importance of including provisions covering gender equality, including specific provisions about gender balance in the composition of such bodies. This has resulted in a more inclusive and participatory national structure in several Latin American countries; more workable legislative texts adopted in Botswana and Namibia; and drafts awaiting adoption in Kenya and the United Republic of Tanzania.
9. In 2004, the Office began the implementation of the Organization’s operational objective on gender equality in the current programme and budget, which includes the promotion of the two fundamental Conventions concerning discrimination, as well as the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183). More detailed reporting on the implementation of this operational objective, including an increased number of ratifications of the key equality Conventions and activities in numerous countries to promote the ratification and implementation of these Conventions and to improve gender equality through policies, legislation and institutions, can be found in GB.292/PFA/3.
10. ILO assistance to promote and implement the fundamental principle and right to equal remuneration for men and women for work of equal value has grown over the years and was given special impetus by the 2004 Conference resolution on gender equality, pay equity and maternity protection. As a follow-up to the resolution, significant areas of work were identified through an Office-wide discussion to give effect to the resolution: (1) development of guidelines and a training programme on gender-neutral job evaluations and workplace reviews to advance equal pay for work of equal value; (2) national workshops with ILO constituents; (3) updating ILO databases on occupational segregation and equal employment opportunities; and (4) promoting ratification of Convention No. 183.<sup>1</sup>

<sup>1</sup> See GB.291/3 (Nov. 2003).

- 11.** The Office also continued its activities to build leadership of women trade unionists, for example in Burundi, Cameroon, Congo and Gabon and to strengthen the capacity of trade unions to tackle different forms of discrimination. For example, in Peru, the “Evaluation and follow-up workshop for women leaders of the Ibero-American labour movement”, held in November 2004, aimed at strengthening the Hispano-American trade union network, whose main concern is mainstreaming the Decent Work Agenda, including equal opportunities for women and men, into the processes of regional and subregional economic integration. It adopted follow-up proposals targeting the protection of migrant women workers, fairer treatment of domestic workers, and pay equity. The “Strengthening labour relations in East Africa” project in Uganda has helped the proportion of women in union membership to rise from 29 per cent in 2002 to 35 per cent in 2004, and in 2003, three out of the six top leaders of the Trade Union Congress were women.
- 12.** Assistance by the Office to promote gender equality is continuing in many countries throughout the world and focusing on the adoption of legislation, national plans of action and mechanisms. For example, in Indonesia, ILO support to the Ministry of Manpower and Transmigration (MOMT) to build technical capacity on non-discrimination is focusing on MOMT guidelines on equal employment opportunity for employment practices that are being finalized to underpin implementation of the 2003 Manpower Act. In the Islamic Republic of Iran, ILO technical advice on legislation, policies and the institutional framework on gender equality adopted at the 2003 ILO/MOLSA Conference on Promoting women’s employment, empowerment and equality is reflected in a new employment strategy and by the willingness of the Government to organize workshops on women workers’ rights in rural areas. In Mauritius, ILO support to the UNDP project on gender equality and empowerment of women (2005-07) will focus, among others, on capacity building and technical advice to develop and implement policies and legislation in conformity with Conventions Nos. 100 and 111. In Peru, technical assistance by the Office to the Inter-Departmental Committee for Equal Opportunities of the Ministry of Labour, established in early 2004, included a gender audit of the Ministry’s employment programmes and the development of a draft action plan and a strategy to mainstream gender concerns into these programmes. In Paraguay, following ILO assistance, a decent work for women plan was adopted by the Gender Equality Tripartite Commission, which includes as a target the ratification of Convention No. 156. In Uruguay, an action guide to eradicate discrimination and promote gender equality in the world of work was adopted by the Tripartite Commission on Gender Equality as a result of two years of social dialogue. In Yemen, in June 2004, the Office launched a project on strengthening the national machinery for the advancement of working women after which discussions on reviewing the current national strategy for women’s employment started. In 2004, the ILO Programme on Gender, Poverty and Employment (GPE) in Latin America contributed to mainstreaming gender and to stimulating tripartite participation in the poverty alleviation strategies, policies and programmes in, for example, Paraguay, Bolivia, Honduras and Nicaragua.
- 13.** In continuation of its commitment to combat sexual harassment at work, inspired by the 2003 Committee of Experts’ general observation on this issue, the Office has provided technical advice and training on sexual harassment legislation and policies to constituents in China and Pakistan and will continue to do so in the light of increasing requests for assistance from constituents on this issue. Widespread dissemination of promotional material in the formal sector in India, Nepal, Pakistan and Sri Lanka has led to increased awareness and a rise in complaints on sexual harassment and measures taken by enterprises to deal with them. In the context of its activities in small enterprises, the Office is currently testing a training module on how to prevent and deal with sexual harassment.

## **B. Racial, ethnic, religious and social origin discrimination**

14. The Office's activities addressing discrimination on the basis of race, ethnic, religious or social origin have grown steadily. In Nepal, the ILO study on discrimination and forced labour of occupational castes has been completed and the Office contributed to a chapter on the Dalits in the country's tenth five-year plan. In December 2004, the Office participated in an international consultation on caste-based discrimination in Kathmandu organized by the International Dalit Solidarity Network, which adopted the Kathmandu Dalit Declaration, calling upon governments, among others, to enact equality laws that prohibit employment discrimination on the basis of caste, require affirmative action programmes and set up adequate monitoring and reporting systems. In India, a study is being carried out to document alleged discrimination against Dalits in the areas of working conditions, wages and access to employment. In the Philippines, the ILO continued its initiatives for skills improvement and access to employment and self-employment of the Muslim communities in Mindanao.
15. As a follow-up to the Global Report *Time for equality at work* since early 2004, the Racial Equality Project in Brazil has been assisting the Secretariat for a Policy for Racial Equality (SEPPIR) and the Ministry of Labour to develop a national policy to prevent and combat racism, and its gender dimensions, in employment and occupation. The main achievement of the project has been its contribution to the streamlining of the Ministry's federal programme to combat discrimination and promote equality of treatment and opportunity with respect to gender and race. Following technical support by the Office, a Tripartite Commission on Gender and Race Equality at Work was created in August 2004 with the Office as a permanent adviser.
16. At a global level, the ILO has continued to cooperate with the United Nations Office of the High Commissioner for Human Rights with regard to the follow-up to the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Office also took part in the fourth session of the Working Group of Experts on People of African Descent (October-November 2004), which focused on racism and health, racism and employment, and racism and housing.

## **C. Discrimination and migrant workers**

17. The conclusions of the general discussion on migrant workers at the 92nd Session of the International Labour Conference (June 2004) highlighted combating discrimination as a fundamental component of effectively managing labour migration and achieving integration of immigrant workers. Pertinent guidelines based on good practices will be included in the "non-binding multilateral framework for a rights-based approach to labour migration" being prepared for consideration by the Governing Body. Preparations are under way for a joint ILO/CAEMC (Central African Economic and Monetary Community) workshop aimed at, among others, promoting the ratification of the ILO Conventions on migrant workers.
18. Widening interest in ILO approaches on discrimination regarding migrant workers was manifested in 2004. The Office presented findings of its "practice testing" research measuring discrimination rates in major urban centres of Italy in April 2004 after which the Government and the social partners pledged to implement new activities to reduce discrimination against migrant workers. Studies on levels and characteristics of discrimination against migrant workers will be carried out in France and Sweden in 2005-06.

19. The Office also launched a web site compendium of nearly 100 “practice profiles” of initiatives by employers, trade unions, government agencies and NGOs in 24 countries to combat discrimination and/or facilitate integration of immigrants. In addition, the ILO technical cooperation project on “Promoting equality in diversity: Integration in Europe” has started to support social partner and community engagement across the EU in facilitating integration of, and combating discrimination against, immigrants.
20. Tripartite training workshops on migrant workers have been held in the Islamic Republic of Iran and Sri Lanka. In Indonesia and the Philippines, the Office has launched the Mobilizing Strategy for the Protection of Migrant Workers against Trafficking and Forced Labour Project to address the needs and concerns of domestic workers. In Indonesia, the ILO also supported the training of trade unions and migrant workers’ representatives from key migration sources and transit points in Indonesia, and is developing some generic training material on this as well as follow-up training on outreach and organization of migrant workers. The ILO guide “Preventing discrimination, exploitation and abuse of women migrant workers: An information guide”, which is being translated into several languages, has proven to be valuable in assisting constituents to regulate their migration policies and programmes and raise awareness on migrant workers’ rights.

#### **D. Discrimination and disabled workers**

21. In the framework of ILO support provided to governments and social partners in selected countries of East Africa and Asia to improve the effectiveness of legislation concerning the training and employment of persons with disabilities, a draft disability policy has been developed in Kenya, to give effect to the Persons with Disabilities Act 2003. A disability bill has been developed in Zanzibar to give effect to the disability policy. Technical advice was provided to the Government of Ethiopia in the drafting of a regulation under Proclamation No. 101/94 on the rights of disabled persons to employment. A tripartite meeting was conducted in China to discuss regulations regarding the employment of persons with disabilities, while technical assistance was provided to a review group established to revise the law concerning persons with disabilities in Thailand. In Uganda, the Federation of Ugandan Employers developed a customized version of the Code of practice on managing disability in the workplace. A strategy for developing entrepreneurship among women with disabilities, developed and tested in two regions of Ethiopia, was evaluated and preparations made to replicate this in other regions of the country and other African countries.
22. In the Arab States, technical support was provided to the Plan of Action for the Arab Decade for People with Disabilities 2004-13. In collaboration with UNESCO and the UN Special Rapporteur on Disability, the Office is supporting preparations for the forthcoming Regional Meeting of Arab Parliamentarians (March 2005) with a view to improving legal protection and equalization of training and employment opportunities for people with disabilities. Following regional meetings concerning disability in Bangkok and Warsaw, the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, (No. 159) was ratified by Fiji and Poland, and a tripartite workshop was held in Sri Lanka to promote its ratification.
23. In Central and Eastern Europe, the Office supported the vocational training and labour market integration of persons with mental health disabilities in Romania, and the organization of training for vocational rehabilitation experts from Bulgaria, Moldova and Romania.
24. In the Bahamas, the Office provided support to a campaign to review disability-related policies of relevance to employment in the broader context of decent work, focusing on

how such policies can benefit all citizens, and challenging negative stereotypes concerning disabled persons.

25. Globally, the ILO has collaborated in the World Bank initiative to establish a Global Partnership for Disability and Development (GPDD), which aims to combat the social and economic exclusion and impoverishment of people with disabilities and their families in developing countries. The Office further developed “Guidelines on achieving equal employment opportunities for people with disabilities through legislation”, which have been piloted with success in several countries, including Ethiopia.

## **E. Discrimination and workers with HIV/AIDS**

26. The Office has continued to promote and support the adoption and revision of legislation to cover HIV/AIDS and employment issues, particularly to protect workers against discrimination, breaches of confidentiality and mandatory testing. One example is the United Republic of Tanzania, which adopted an Employment and Labour Relations Act in 2004 prohibiting discrimination based on HIV/AIDS. In Indonesia, the Office supported tripartite cooperation to agree on the contents of the ministerial decree on HIV/AIDS in the workplace, which puts in place anti-stigmatization and non-discrimination measures. Instruments are in the pipeline in several other countries such as Cambodia, China, India, Kenya, Lesotho, Malawi, Nigeria and Viet Nam. The Office has also provided advisory services to member States, including Belize, Botswana, Côte d’Ivoire, Jamaica, Nigeria and Togo, on integrating a workplace component in national HIV/AIDS policies and including the social partners in national planning and coordination mechanisms. Tripartite training workshops aimed at the adoption of action plans have been held in Sao Tomé and Príncipe, Burundi and Cameroon.
27. The ILO code of practice on HIV/AIDS and the world of work is now being used by policy-makers and workplace partners in over 60 countries as a basis for national programmes, enterprise policies and collective bargaining. For example, in the Philippines, advocacy and awareness-raising sessions on HIV/AIDS for the tripartite constituents have encouraged the Employers’ Confederation of the Philippines to conduct a series of advocacy meetings among its member organizations which resulted in a corporate policy on HIV/AIDS. The Trade Union Congress of the Philippines has been implementing its workplace policy and programme on HIV/AIDS and the Department of Labor and Employment has conducted a series of training activities for labour inspectors and has been helping government agencies in setting up workplace policy and programmes on HIV/AIDS.
28. Office activities also included the development of information and education materials, designed to combat discrimination as well as promote prevention. A handbook has been produced on addressing HIV/AIDS in the workplace through employment and labour law, and IFP/DIALOGUE published the “Guidelines on addressing HIV/AIDS in the workplace through employment and labour law”, in January 2004, which has inspired labour law reform activities in India and several African countries.

## **F. Discrimination and indigenous and tribal peoples**

29. In 2004, the Interregional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and other Self-Help Organizations and the Project to Promote ILO Policy on Indigenous and Tribal Peoples, in cooperation with other ILO programmes and activities, continued their activities in Asia and Africa based on a rights-based approach and poverty reduction for indigenous and tribal peoples.

30. A one-year research project on national legislation and customary law of relevance to indigenous and tribal peoples will be launched in Morocco, in collaboration with the Amazigh association TAMAYNUT, after a three-day seminar on the rights of indigenous peoples, with specific reference to the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In Cameroon, a study on legislation and customary law of relevance to indigenous and tribal peoples, and its impact on these peoples has just been completed. This study, and a case study on the PRSP process as regards indigenous peoples, will feed into a national tripartite workshop, also involving indigenous peoples' organizations, in February 2005, which will agree on ways to further the protection of these peoples' rights. Following a mission in April 2004, a national project is in the pipeline for Cambodia which will provide policy advice and capacity-building assistance to government ministries with responsibility for dealing with indigenous issues, and capacity building for indigenous and tribal peoples to promote and protect their rights. In Nepal, the Office assisted in the preparations involving representatives of indigenous peoples' organizations of Nepal for a National Dialogue Conference on Convention No. 169 and Peace Building planned for early 2005. A comparative study on Convention No. 169 and national policy has been completed and a pilot study on ethnicity and child labour is under way. In the Philippines, the ILO-UNDP project on development and publication of case studies in support of the implementation of the Indigenous Peoples Rights Act (IPRA), launched in November 2004, aims to improve the policy and decision-making of key governance institutions by developing empirical evidence of key issues relevant to the indigenous peoples.
31. The Office also worked on increasing the knowledge and capacity of ILO staff to integrate issues pertaining to indigenous and tribal peoples into relevant ILO projects and programmes. A regional consultation and planning meeting for ILO staff was held at the ILO Regional Office in Bangkok in March 2004, which developed subregional strategies for the promotion of indigenous peoples' rights and the integration of indigenous issues into ILO activities of relevance to them.
32. As one of the foremost UN agencies in the Inter-agency Support Group to the UN Permanent Forum on Indigenous Issues (PFII), the ILO is collaborating with the Forum on a number of issues. The Office's project on Convention No. 169 is undertaking case studies in Cameroon and Cambodia on the participation of indigenous and tribal peoples in the PRSP processes, and indigenous peoples' own perceptions and indicators of poverty, which will feed into the work of the PFII at its session in May 2005.

## **G. Discrimination and workers of the occupied Arab territories**

33. In 2004, the Office again fielded a high-level mission to examine the situation of men and women workers of the occupied Arab territories, and the Director-General presented the regular report on the issue to the Conference. This time, the report put particular emphasis on the situation of women in the occupied territories, who, in spite of high educational attainments, remain marginalized in the labour market. The ILO's ongoing technical cooperation programme in the region continued to be centred on strengthening the capacity of the social partners and the Ministry of Labour, promoting social dialogue and developing the Palestinian Fund for Employment and Social Protection.

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