

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION  
AND THE PROTECTION OF MINORITIES

Activities of the International Labour Organization  
in the Field of the Prevention of Discrimination  
and the Protection of Minorities

(The Secretariat has received the following statement  
from the International Labour Organization of  
the United Nations)

1. In the Declaration of Philadelphia<sup>1</sup>, adopted by the International Labour Conference in its Twenty-sixth Session (Philadelphia, 1944) the Conference affirmed that:

- "(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
- (e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate."

/2. The principles

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<sup>1</sup> The Declaration of Philadelphia has since been incorporated with the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946.

2. The principles enunciated in the Declaration of Philadelphia have received detailed implementation in the International Labour Conventions and Recommendations adopted by the Conference. Various of these Conventions and Recommendations contain specific provisions regarding discriminatory practices as between different groups of workers, as for example, in the fields of women's work, maritime labour, social policy in non-metropolitan territories and social insurance.

#### Women's Work

3. The International Labour Organization has repeatedly claimed as one of its essential aims that all workers should be afforded equality under labour legislation and consequently that women workers should be ensured full opportunities in their work life. Such a principle to be complete, however, has called for certain protection for the function of maternity in order to safeguard the bearing and rearing of children, for which women inevitably carry greater responsibility than men.

4. The policy followed by the Organization in this respect was stated in the following terms in The International Labour Organization, The First Decade, which was published by the International Labour Office in 1931: "... all special protection for women workers must, if it is to be true to its end, be based on the necessity for avoiding the serious consequences ... of the physiological injuries which certain types of unhealthy or trying conditions of work may cause to women, or, in short, for protecting the maternal function. Any protective measure which aimed solely at restricting the scope of employment for women without being inspired by the above considerations would constitute an infringement of the principle of the equality of the sexes ...".<sup>1</sup>

5. The Organization has made limited use of Conventions applying only to women workers. It has had recourse to such measures only where important differences in biological characteristics and related social conditions have made particular action seem essential to promote special measures in their interest. For the most part, women workers have shared with all workers in the benefits derived from the Conventions adopted to improve conditions of work and standards of living.

/6. Of eighty

<sup>1</sup> Pages 141-142



6. Of eighty six Conventions adopted in thirty sessions of the International Labour Conference, from 1919 to 1947, eighty were concerned with the protection of workers without distinction as regards sex. The majority of all these Conventions apply in practice to women as well as men.
7. Three Conventions, which in general apply to workers of both sexes, contain special provisions relating to women workers, namely: No. 13, White Lead (Painting), 1921 (Article 3); No. 29, Forced Labour, 1930 (Article 11), and No. 56, Sickness Insurance (Sea), 1936 (Article 5 concerning maternity). One Convention, No. 82, Social Policy in Non-Metropolitan Territories, 1947, contains special provisions prohibiting sex discrimination.
8. Nine Conventions which relate to the social insurances: Nos. 24 and 25, 1927; Nos. 35 to 40, 1933; and No. 56, 1936, contain provisions of especial interest to women, not gainfully occupied, as members of workers' families.
9. Four Conventions are specifically concerned with the employment of women. They are: No. 3, Childbirth, 1919; No. 4, Night Work (Women), 1919; No. 41, Night Work (Women) (Revised), 1934; and No. 45, Underground Work (Women), 1935.
10. Of the eighty two Recommendations adopted at the thirty sessions of the International Labour Conference from 1919 to 1947 inclusive, seventy-six apply to all workers without distinction of sex.
11. Four recommendations apply specifically to women and provide for special measures of protection, namely: No. 4, Lead Poisoning (Women and Children), 1919; No. 12, Childbirth (Agriculture), 1921; No. 13, Night Work of Women (Agriculture), 1921; and No. 26, Migration (Protection of Females at Sea), 1926.
12. Eleven of the general Recommendations contain, however, special provisions for women, generally with a view to ensuring equal treatment of workers of both sexes under the terms of the international regulations.
13. Certain of these general Recommendations suggesting methods of application in relation to adopted Conventions provide in particular for: equal remuneration for work of equal value; maternity protection within the framework of the insurance system; and adequate representation of women on the administrative bodies of invalidity, old-age and survivors' insurance. Other Recommendations of this group tend to ensure equality of status of women labour inspectors; equality of rights of admission to technical and vocational schools and equal rights to obtain the same certificates and diplomas on completion of technical and vocational training; provision of adequate training facilities for women's occupations; representation and participation of women in the setting up and the operation of training and selection facilities for young workers; creation of employment opportunities for women through public works; and provision of standards of employment for female workers in dependent territories.

/14. In addition,

14. In addition, four Recommendations suggest measures in favour of non-gainfully occupied women members of workers' families, as regards social insurance, migrant workers and workers in dependent territories.
15. One of the Recommendations - the Employment (Transition from War to Peace) Recommendation, 1944 - defines principles of labour policy in respect of women workers for the period of transition from war to peace. It provides by specific clauses for equality of opportunity for women with men as regards admission to employment; it sets forth the principle of establishing wage rates based on job content regardless of the sex of the worker; and it calls for programmes to raise the status of industries and occupations traditionally employing women.
16. This Recommendation has already played an important role in the programme of the International Labour Organization in the immediate post-war years. The principles which it enunciates for ensuring full and equal opportunities for women in accordance with individual capacity in all phases of their employment constitute a significant step in codification of international labour standards as regards women workers.
17. In conclusion, the point should be made that any analysis of legislation as regards women enacted between 1919 and 1947 must take into account the change which has taken place in the demand for legislation protecting women. Much progress has been achieved during the period in improving conditions of work and life for all workers, both men and women. The movement to provide protection against the special hazards which affect workers in industrialized nations has frequently utilized legislation for women to point the way to adequate provisions for men and women. General improvement, however, lessens the demand for special provisions for women.
18. In addition, widespread technological changes altering in part the traditional distinctions between men's and women's employment and the increased importance of women in the labour markets of industrialized nations have both played a part in lessening the exploitation of women workers, which often has accompanied the early stages of industrialization.
19. Moreover, the change in the economic and political status of women which has taken place during this period in varying degrees in the major part of the world has exerted considerable influence upon the legislation covering women in many countries. The acquisition of the franchise by women in a large number of States and their increasing organization into trade unions have tended to increase their ability to exercise democratic rights, including some choice of occupation and self-direction. Women themselves have increasingly demanded the minimum of restraint upon their employment that may be consistent with biological requirements.



20. In 1919, as in earlier years, progressive laws in many industrialized nations were enacted to protect women as wards of the State, largely incapable of action on their own behalf. In addition, earlier legislative provisions protected women as a special category of persons, either because women were particularly exposed to danger or exploitation in industrial work, or because opposition to the regulation of working conditions could only be overcome in a limited field of application.

21. By 1946, the basis for legislation regarding women workers had shifted considerably, becoming, in effect, an effort to equalize in part the position of women workers in comparison with that of men workers with respect to the specific burdens of child-bearing and family care which women carry in larger measure than men. Beyond that, the interests of both men and women have been seen increasingly as the same, and the interests of all workers have been advanced together.

22. A review of the Conventions and Recommendations which, either in whole or in part, are concerned especially with women workers indicates clearly the development which has taken place during the years between 1919 and 1947 in both national and international legislative policies as regards women. Early action was concerned primarily with the protection of maternity. In the course of the years a network of standards has been established both to protect the maternal function and to provide rest and sustenance for women at the time of childbirth.

23. In later years increasing emphasis has been placed upon ensuring equal treatment for women with men workers. The principles which proclaimed the right of women to both equality of treatment and maternity protection have been evident throughout the life of the International Labour Organization.

#### Maritime Labour

24. The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936, provides that national laws or regulations relating to benefits under the terms of the Convention "shall be so interpreted and enforced as to ensure equality of treatment to all seamen irrespective of nationality, domicile or race".<sup>1</sup>

25. In the discussion on this point in the International Labour Conference, some delegates drew attention to the fact that it was a principle hitherto recognized in International Labour Conventions that, where an exception was not made in respect of foreign workers, equality of treatment was presumed. Since that particular Convention as it stood authorized no discrimination against foreign seamen, they argued, the insertion of a clause to that effect was unnecessary. The mover explained that it was the experience of non-

<sup>1</sup> International Labour Code, 1939, Article 716, and note 3, page 450

domiciled seamen that they did not in practice obtain the same benefits as other seamen employed on the same ships. For this reason, he desired an explicit affirmation of the principle of equality of treatment to be embodied in the Convention.

26. The question of hours of work, combined with the question of the manning of merchant vessels, was first dealt with in 1936. A Convention on this subject adopted at that time did not, however, receive a sufficient number of ratifications to bring it into force. After the Second World War it was felt that it would be possible to reach international agreement on working hours for seafarers, and also that more satisfactory results might be obtained if the Convention on this subject dealt also with the allied question of wages. Consequently, in 1946, the Maritime Session of the Conference at Seattle adopted a new Convention on wages, hours of work and manning.<sup>1</sup>

27. One special difficulty which arose in connection with the minimum wage was the position of certain classes of seamen (such as Chinese, Indian and African seamen) who are employed in considerable numbers on ships of countries other than their own. The Conference was unanimous in its view that there ought not to be any discriminatory treatment of these seamen by reason merely of their race. The majority were agreed, however, on the necessity for taking account of the fact that it is at present the practice to employ these seamen in larger numbers than would be the case if the crew were composed of nationals of the country of the ship's flag. It was therefore thought desirable to apply in such cases the principle of equal pay for equal work, but to provide that the minimum basic pay should be the equivalent of the general minimum, adjusted to take account of the numbers employed and other factors affecting the cost of operation of the ship.

28. The Seattle Session of the Conference adopted, at the same time, a Convention on crew accommodation on board ship<sup>2</sup>, so as to lay down certain international minimum standards.

29. The special situation of certain categories of seafarers had to be taken into account in this Convention, as in the Convention dealing with wages. The Conference was unanimously of the opinion that there should be no discrimination against crews of any nationality simply on account of racial characteristics. It recognized, however, that if the crew which had

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<sup>1</sup> Convention (No. 76) Concerning Wages, Hours of Work on Board Ship and Manning. For the relevant provisions of this Convention, see Annex I.

<sup>2</sup> Convention (No. 75) Concerning Crew Accommodation on Board Ship. For the relevant provisions of this Convention, see Annex II.



to be carried was larger than would otherwise be required for a vessel of any given size, the owner could not reasonably be expected to provide the standard space for each individual and thus reduce the carrying capacity and earning power of the vessel. The Convention therefore provides that there may be a proportionate reduction in the minimum floor area of sleeping rooms per person in such cases, provided that the total sleeping space is not less than would have been allotted to a crew of different nationality, and that the minimum area per person does not fall below certain specified limits.

#### Social Policy in Non-Metropolitan Territories

30. The International Labour Conference adopted at its Twenty-Sixth (Philadelphia, 1944) and Twenty-Seventh (Paris, 1945) Session, two Recommendations<sup>1</sup> on social policy in dependent territories, each of which contained provisions against discriminatory practices. The essential points of these provisions were incorporated in the Convention concerning Social Policy in Non-Metropolitan Territories which was adopted by the Conference at its Thirtieth Session (Geneva, 1947).<sup>2</sup> This Convention provided that "it shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of:

- (a) labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the territory;
- (b) admission to public or private employment;
- (c) conditions of engagement and promotion;
- (d) opportunities for vocational training;
- (e) conditions of work;
- (f) health, safety and welfare measures;
- (g) discipline;
- (h) participation in the negotiation of collective agreements;
- (i) wage rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking to the extent to which recognition of this principle is accorded in the metropolitan territory."

<sup>1</sup> Recommendation (No. 70) Concerning Minimum Standards of Social Policy in Dependent Territories, and Recommendation (No. 74) Concerning Minimum Standards of Social Policy in Dependent Territories (Supplementary Provisions). For the relevant provisions of these Recommendations, see Annex III.

<sup>2</sup> Convention (No. 82) Concerning Social Policy in Non-Metropolitan Territories. For the relevant provisions, see Annex IV.

Social Insurance

31. The International Labour Organization has a special responsibility for the protection of workers employed in countries in which they are foreigners. In its Conventions or Recommendations on social insurance will be found plenty of evidence of its preoccupation with the rights of this category of workers. Equality of treatment for national and foreign insured persons is implicit in the sickness insurance regulations; it is explicitly laid down in international regulations concerning workmen's compensation and shipowners' liability. In the case of pension insurance and unemployment insurance or assistance, foreigners are to have the same rights as nationals to benefits to which they have contributed, but their right to benefits paid out of taxation may be made conditional upon the existence of reciprocity in this matter between the two States Members concerned.

32. Industrial accident insurance and invalidity, old-age and survivors' insurance include pensions among their benefits, and it happens that workers migrate to other countries after having become entitled to a pension or after having paid contributions - it may be many years - towards an old-age pension. The workers are chiefly foreigners, but some of them are nationals of the State under whose scheme the right was acquired or the contributions were paid. Special Conventions have been adopted concerning the rights of migrants under workmen's compensation and pension insurance schemes respectively.

33. The special Convention on workmen's compensation requires States, subject to reciprocity, to continue to pay accident pensions to injured foreign workers, or the dependents of deceased foreign workers, who reside abroad, if the States pay such pensions to their own nationals while residing abroad.

To secure the pension rights of migrants under schemes of invalidity, old-age and survivors' insurance, an elaborate Convention was adopted in 1935. This Convention provides, subject to reciprocity, not only for the continued payment of pensions already awarded on behalf of beneficiaries migrating to another country, but also for the sharing of pension liability between the two countries on behalf of persons who are insured successively under the scheme of each country. A Resolution adopted at the 30th Session of the International Labour Conference in 1947 envisages the re-examination of this Convention with a view to securing its wider ratification.



ANNEX I

Relevant Provisions of Convention (No. 76)  
Concerning Wages, Hours of Work on Board  
Ship and Manning

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Article 6

1. In the case of ships in which are employed such groups of ratings as necessitate the employment of larger groups of ratings than would otherwise be employed the minimum basic pay or wages of an able seaman shall be an amount fixed as the adjusted equivalent of the minimum basic pay or wages stipulated in the preceding article.
2. The adjusted equivalent shall be fixed in accordance with the principle of equal pay for equal work and due allowance shall be made for -
  - (a) the extra number of ratings of such groups who are employed; and
  - (b) any increase or decrease in cost to the shipowner consequent on the employment of such groups of ratings.
3. The adjusted equivalent shall be determined by collective agreement between the organizations of shipowners and seafarers concerned or, failing such agreement and subject to both countries concerned having ratified the Convention, by the competent authority of the territory of the group of seafarers concerned.

ANNEX II

Relevant Provisions of Convention (No. 75)  
Concerning Crew Accommodation on  
Board Ship

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Article 16

1. In the case of the ships mentioned in paragraph 5 of Article 10<sup>1</sup> the competent authority may, in respect of the members of the crew there referred to, modify the requirements laid down in the foregoing articles as far as may be necessary to take account of their distinctive national habits and customs and in particular may make special arrangements concerning the number of persons occupying sleeping rooms and concerning mess room and sanitary facilities.

2. In modifying the said requirements the competent authority shall be bound by the specifications set forth in paragraphs 1 and 2 of Article 10<sup>2</sup> and by the minimum sleeping space requirements prescribed for such groups of ratings in paragraph 5 of Article 10.

1 The text of paragraph 5 of Article 10 is as follows:

"In the case of ships in which are employed such groups of ratings as necessitate the employment of a substantially larger number of ratings than would otherwise be employed, the competent authority may, in respect of such groups, reduce the minimum floor area of sleeping rooms per person, subject to the conditions that -

(a) the total sleeping space allotted to the group or groups is not less than would have been allotted had the numbers not been so increased, and

(b) the minimum floor area of sleeping rooms is not less than -

- (i) 18 sq. ft. per person in ships under 3,000 tons;
- (ii) 20 sq. ft. per person in ships of 3,000 tons or over."

2 The text of paragraphs 1 and 2 of Article 10 is as follows:

"1. Sleeping rooms shall be situated above the load line amidships or aft.

2. In exceptional cases the competent authority may if the size, type or intended service of the ship render any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the ship, but in no case forward of the collision bulkhead."

/3. In ships



3. In ships in which the crew in any department are persons of widely different national habits and customs, separate and appropriate sleeping and living accommodation shall be provided as may be necessary to meet the requirements of the different groups.

4. In the case of the ships mentioned in paragraph 5 of Article 10 the hospital, dining, bathing and sanitary facilities shall be provided and maintained on a standard, in regard to their quantity and practical usefulness, equal or comparable to that which obtains aboard all other ships of similar type and belonging to the same registry.

5. The competent authority shall, when framing special regulations under this Article, consult the recognized bona fide trade unions of seafarers concerned and the organizations of shipowners and/or the shipowners employing them.

ANNEX III

Relevant Provisions of Recommendation (No.70)  
Concerning Minimum Standards of Social  
Policy in Dependent Territories

ANNEX

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Section 8. Employment of Women

Article 29

It shall be an aim of policy for all competent authorities to take such measures as, having due regard to local conditions, are appropriate and practicable to secure for women: adequate opportunities of general education, vocational training and employment; safeguards against physically harmful conditions of employment and economic exploitation, including safeguards for motherhood; protection against any special forms of exploitation; and fair and equal treatment between men and women as regards remuneration and other conditions of employment.

Article 30

All practicable steps shall be taken to improve the social and economic status of women in any dependent territory where, whether by law or custom, arrangements survive which in effect maintain women in, or reduce women to, a condition of servitude.

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Section 11. Prohibition of Colour and Religious  
Bars and Other Discriminatory Practices

Article 41

1. The standards set by law in each territory with respect to conditions of labour shall have due regard to the equitable economic treatment of all workers lawfully resident or working therein.
2. Discrimination directed against workers for reason of race, colour, confession or tribal association, as regards their admission to public or private employment shall be prohibited.
3. All measures practicable under local conditions shall be taken to promote effective equality of treatment in employment by the provision of facilities for training, by the discouragement of discrimination in the negotiation of collective agreements or on grounds of trade union membership, and by other appropriate means.

/Relevant



Relevant Provisions of Recommendation (No.74)  
Concerning Minimum Standards of Social  
Policy in Dependent Territories  
(Supplementary Provisions)

ANNEX

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Section 1. Wages and Thrift

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Article 2

1. Where no adequate arrangements exist for the effective fixing of minimum wages by collective agreement, official machinery whereby minimum rates of wages can be fixed for the workers shall be created and maintained.
2. Any minimum rates so fixed by decision of the competent authority shall observe the principle of equal remuneration for men and women for work of equal value.

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Article 6

1. It shall be an aim of policy effectively to establish the principle of equal wages for work of equal value in the same operation and undertaking and to prevent discrimination directed against workers by reason of their race, religion or sex in respect of opportunities for employment and promotion and in respect of wage rates.
2. All practicable measures shall be taken to lessen any existing differences in wage rates which are due to discrimination by reason of race, religion or sex by raising the rates applicable to the lower paid workers.
3. Workers engaged for employment from outside any dependent territory may be granted additional payments to meet any reasonable personal or family expenses resulting from employment away from their homes.

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Section 3. Social Security

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Article 11

1. There shall be equality of treatment for national and foreign workers in respect of workmen's compensation for accidents and occupational diseases.
2. Foreign workers who are entitled to workmen's compensation benefits and who are returning to their countries of origin shall be entitled to any compensation which would have been due to them if they had remained in the territory of employment. If benefit payments are periodical, they shall continue to receive such benefits or be granted a lump sum in lieu thereof.

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ANNEX IV

Relevant Provisions of Convention (No.82) Concerning  
Social Policy in Non-Metropolitan Territories

Part VI - Non-Discrimination on Grounds of Race,  
Colour, Sex, Belief, Tribal Association or  
Trade Union Affiliation

Article 18

1. It shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of:

- (a) labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the territory;
- (b) admission to public or private employment;
- (c) conditions of engagement and promotion;
- (d) opportunities for vocational training;
- (e) conditions of work;
- (f) health, safety and welfare measures;
- (g) discipline;
- (h) participation in the negotiation of collective agreements;
- (i) wage rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking to the extent to which recognition of this principle is accorded in the metropolitan territory.

2. Subject to the provisions of sub-paragraph (i) of the preceding paragraph, all practicable measures shall be taken to lessen, by raising the rates applicable to the lower-paid workers, any existing differences in wage rates due to discrimination by reason of race, colour, sex, belief, tribal association, or trade union affiliation.

3. Workers from one territory engaged for employment in another territory may be granted in addition to their wages benefits in cash or in kind to meet any reasonable personal or family expenses resulting from employment away from their homes.

4. The foregoing provisions of this Article shall be without prejudice to such measures as the competent authority may think it necessary or desirable to take for the safeguarding of motherhood and for ensuring the health, safety and welfare of women workers.

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