



## Prohibition of Discrimination in Employment and Occupation in International Labor Documents

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### **Abstract**

The necessity of equality of opportunity and elimination of discrimination in recruitment and employment is one of the important international labor standards. Discrimination in work means any priority, preference, and exclusion based on unreasonable and logical grounds that harm or destroy equal opportunity and equal treatment in employment and occupation. The index of discrimination is social dynamics in two types, i.e. inter-generational and international. Eliminating discrimination in employment and occupation is one of the important standards of international labor law, which in its various forms should be gradually eliminated by countries. On the other hand, it is clear from international labor documents that different behaviors are not included in the scope of discrimination, and on the other hand, discrimination has effects and consequences that should not be neglected. The international standards of work in the mentioned fields have been analyzed and evaluated in this article with a descriptive-analytical method.

**Keywords:** *Discrimination and Equal Opportunity, Employment, Legitimate Differences, International Labor Conventions, International Labor Standards*

### **Introduction**

Discrimination occurs in various forms in the workplace. Since every human being is born free and they are equal in dignity and rights, discrimination in itself has the characteristic of humiliating and is contrary to human dignity. Equal distribution of job opportunities and productive resources and equal access of women and men with different race, ethnic, and religious origins contribute to high growth and political stability. The Declaration of Philadelphia states: All human beings have the right to pursue their physical health and spiritual development in the light of freedom, human dignity, economic security, and equality of opportunity, regardless of race, ethnicity, or creed. In the issue of discrimination at work, the International Labor Organization pursues two goals: 1. Eliminating discrimination in behavior and 2. Promoting equality of opportunity. (Nicolas Valticos & Geradold Von Potobsk, 2005, P 118.)

Since the establishment of the organization in 1919, its fundamental issues have been the issue of discrimination. The statute of the International Labor Organization has recognized equal pay for work of

equal value. The freedom to choose an occupation or the right to work, which the forced labor convention aims to guarantee, will be meaningless when individuals are subject to discrimination because it will limit their opportunity to find work or put them at a disadvantage about set working conditions. Therefore, simply predicting the freedom to choose a job and prohibiting forced labor is not enough so that there is no forced labor, but there should also be no discrimination in hiring and employment so that the freedom to choose a job is realized, otherwise, some people have no choice but to join special and low-level jobs and excel. Others on high-level jobs with high incomes. Discrimination in itself is humiliating in nature and incompatible with human dignity. Discrimination at the national level will increase tension between social groups, which is itself a sign of discrimination. Discrimination at the international level in various fields will endanger peace. For this reason, de-discrimination and its reduction in all areas, including the work area, is vital for the domestic and international arena. Realization of this matter requires different solutions, including normative solutions, international labor standards are one of the normative solutions, but of course, other dimensions, i.e. non-legal ones, should not be neglected and they should be combined to help solve a human problem. Therefore, non-discrimination and equality of opportunity and behavior in the fields of employment and occupation is one of the appropriate normative solutions that help to ensure justice, peace, security, decent work, and fair globalization of the economy. As a result, to clarify the angles of this solution, the following questions must be answered: What is the nature of discrimination in work and employment? What is its scope and territory? Based on that, which actions are prohibited and which actions are allowed? What are its effects and consequences? How many types of discrimination are there in the field of work? The purpose of the article is to answer the mentioned questions from the point of view of international law in the first step and with other approaches in the next step. The second approach is due to the fundamental nature of the discrimination issue that we inevitably use philosophical, ethical, and sociological approaches in addition to the legal approach to solve some issues. The necessity and importance of this research is due to the guarantee of human dignity, and the protection of the human dignity of the worker requires the elimination of discrimination and the provision of equal opportunities in employment and equal treatment in labor relations. In addition, the right to prohibit discrimination and the need for equal opportunity are among the fundamental human rights.

#### A) The Concept and Nature of Discrimination and Equal Opportunity and Its Indicator

Equality of opportunity and behavior in the field of work and occupation, as an important work standard, requires the absence of discrimination, and the first step in this direction is to recognize the concept of non-discrimination, which itself requires the recognition of discrimination. On the other hand, one of the requirements for the implementation of a standard is to recognize its absence in a society and to undertake a series of macro strategies and policies to eliminate discrimination, to know its meaning and the type of perception of it.

Discrimination is any difference, deprivation, and preference based on race, color, sex, religion, political opinion, national origin, ethnicity, or social background that affects the loss or damage of opportunities or equal treatment in the field of employment and occupation. Convention No. 111, Article 1)

This definition has three basic elements: 1. Substantive element: the existence of difference, preference, and exclusion without a logical basis; 2. Irrational factors that cause differences in behavior and inequality of opportunity. 3. Issues arising from difference, preference, and exclusion; That is, the loss or damage of opportunities or equal treatment (M. Humblet, International Labor Organization 2001, First Edition 2002) among the three elements of factors and motives does not play a fundamental role in the prohibition of discrimination, and these factors are not limited and irrationally important. their being; But what is essential is the first substantive element, which is any difference, preference, and exclusion in work and employment, with the description that it is effective in the loss or damage of equal opportunity or treatment, which is actually the third factor of the consequence of discrimination, and with this description Discrimination will be prohibited. In other words, whatever the motive of discrimination is, it

is not important and what is important is the difference, deprivation, and preference without a logical reason in the field of employment and occupation; That is, wrong motives are not limited to those mentioned in Convention No. 111. In other words, 1. Substantive element: the existence of difference, preference, and deprivation in employment and occupation; 2. Unjustified and unreasonable factors of the three situations mentioned, (not limited to) any unjustified and unreasonable factor, and 3. Consequences: loss of equal surplus or damage to it or loss of equal treatment or damage to it.

The concept of equality of opportunity in a substantive sense is a situation in which every person can develop and flourish all their talents, regardless of the basic conditions of their birth and childhood, and where a person's economic perspective is hardly determined by his ability and character. will be (Fred Argy, 2006, p. 1) That means the opportunity comes back. The cause of inequality of opportunity is something that is beyond a person's control. Equality of opportunity is intrinsically linked to risk factors and barriers to early childhood years. Also, the substantive perception of meritocracy includes that meritocracy in this perception goes back to the past and before the start of competition in the labor market. (Ibid, p.2.) The lack of opportunity should be sought in the past. In the sense that equality of opportunity in the substantive sense is not only based on objective conditions to guarantee selection for high jobs, but all people in the past and earlier should have the opportunity in their lives to obtain the qualifications and conditions for high jobs. Therefore, opportunities should be looked at throughout life, not at a specific point in time such as hiring or promotion.

On the other hand, in this perception of equality of opportunity, the government should actively intervene to ensure that citizens are not prevented from accessing the ability of education due to the lack of parental health, dignity, and power during their childhood, and as adults, citizens are not prevented from having access to Adequate training or skill development, poor access to health and housing, or poor access to networks should not deprive them of access to their work talents.

This made it possible to measure the existence of equal opportunity in society through social dynamics. Social mobility refers to the ease and frequency with which people move through social hierarchies throughout their lives and across generations regardless of background differences and starting opportunities. Measurement of social dynamics is done both in French and intergenerational light. Both types of measurement are related to equality of opportunity, But both measurements are very different.

Intergenerational dynamics show the movement of adults up and down the hierarchy of jobs and incomes within a single generation. This method is followed to determine which persons' positions or incomes have changed during this period of time. Intergenerational dynamics are usually measured by averaging incomes over a short period of time, such as a decade. This type of measurement is an important social criterion; Because income has a major impact on life satisfaction and spending on education and health.

However, the French dynamic of their influences is not limited to childhood. Additionally, some argue that the rise in income dynamics is simply the result of structural and economic changes in the economy that allow everyone to improve their happiness. In the past, changes in economic structures included such things as changing resources from high value to low industrial value; Increasing the participation of women in the field of work, and overall reduction of unemployment. (Ibid, P. P.2-3)

The global literature on social dynamics broadly covers the dynamics of income, education, and occupations. This impression from the heart of this literature depends on what should be measured, which is usually contradictory; But clues can be obtained. Even in modern countries, the results obtained from the research on equality of opportunity using the two mentioned methods have surprised people that the equality of opportunity is low in the United States and England. Even the equality of opportunity in the two mentioned countries is much lower than in the countries of Sweden and Switzerland, which are countries with social democracy. Even though in liberal democracies with a free market economy,

equality of opportunity should be more, considering the type of political and economic system, that is, both of them are pioneers of liberal economy and structural change.

Education is one of the most important ways in which social policies influence social dynamics; That is, wide participation in the field of education affects other fields. Wide possibilities in the field of education will affect many things in the French standard. If a group is kept deprived of education, whether planned or unplanned, intentionally or unintentionally, in any case, future opportunities will be taken away from them due to lack of knowledge and expertise.

In America, it happened that educated Americans invested heavily in their children's education; But there was no commensurate increase in government spending on public schools and secondary education. As a result, people with low economic status had low participation; (Ibid, P. 9) That is, many opportunities were taken away from them due to poverty and lack of education.

According to clause b, paragraph one, article 1 of Convention No. 111, discrimination is not limited to differences, preferences, and exclusions based on the aforementioned factors, but will include any differences, preferences, and exclusions that are made by the members of the convention after consultation with labor and employer organizations. and other appropriate institutions to be considered. Hence, the differences, preferences, and exclusions based on the mentioned factors are not exclusive.

Equality of opportunity is the opposite of class society. In the class society, the assignment of persons to a position by birth is fixed. Sometimes children get social status through their parents. Social dynamics are possible in a class society; But the process through which acceptance at different levels of job hierarchy is open only to some people who belong to a certain social class from birth. On the contrary, when the equality of opportunity prevails; Placing people in a position in the social hierarchy will be determined through some types of competitive processes, and all members of society are allowed to participate in this competition with equal conditions. In a class society, access to jobs and income is not based on competition and competence, while in a non-class society, the opposite is true. Intent is not an element of discrimination in any way, the agent of discrimination must have the intention of discrimination. (M. Humblet 2002 p. 65) and from the point of view of the nature of discrimination, there is no need to identify the cause of discrimination and it should be removed from the society anyway. Therefore, if actions are taken that have the consequences of the definition, whether the perpetrator intends to discriminate or not, it is considered discrimination and prohibited, and discrimination is not based on the intention of discriminatory actions.

The problem of discrimination based on origin and social roots will appear in a very severe way when members of society are divided into different classes and some classes do not have access to certain types of jobs. For this reason, it is very important to fight with its origin.

Article 1 of the Convention on the Elimination of Racial Discrimination states: In this convention, the word "racial discrimination" means any difference, exclusion, restriction, or privilege based on race, color, origin, and national or ethnic origin, which is intended to cancel or harm It is considered to recognize and respect and implement equality of human rights and basic freedoms in political, economic, social, cultural and other fields related to public life.

It is stated in the mentioned convention in the fifth article of paragraph (e): enjoying economic, social, and cultural rights, especially 1. Enjoying work, free choice of job, having favorable and fair working conditions, protection against unemployment, the right to equal pay for equal work, and having favorable and fair rewards and remuneration 2. The right to form and join labor unions.

The goal of equal employment opportunity is to ensure that people can fully develop their talents and devote their time and energy to the place that has the highest pay. The purpose of the principle of equality in treatment is to guarantee that the wage given for the execution of work should be based on the

amount of production and competence and refers to the conditions of work and employment; Such as equal pay and job security. (International Labor Organization 2011, P. 16) In other words, sometimes a job opportunity may be taken away from people, which is not direct discrimination; But according to Convention 111, it doesn't matter if the discrimination is direct or indirect. Sometimes it is possible that during the official employment of people in equal conditions, they are treated unequally, or unequal wages are given during employment; But sometimes, due to a series of previous arrangements, the opportunity may be taken from some social groups. Such as unequal education among social groups or training of some social group and depriving another group, without rational and logical reason. The first group will be employed in certain jobs due to the necessary knowledge and training, and the second group will be denied access to the job itself due to the inherent necessity. Requiring work experience in completely unfair conditions, which means that an ethnic group is deliberately kept away from certain jobs and then work experience is required for their employment in those jobs, is also indirect discrimination. On the surface, the rules (such as the need for work experience) apply to everyone equally; But it will be discrimination due to the lack of previous opportunity. Previous deprivation has caused an unequal job opportunity. Therefore, the previous deprivation that prevented the flourishing of the talent of a social group has become discrimination in the field of work, the consequence of which is an objective problem called inequality of opportunity, and due to the lack of education of an ethnic group, an opportunity has been taken away from them. Keeping an ethnic minority away from scientific and applied education will lead to wasted opportunities and their employment in specific jobs will be lost, and this itself is discrimination and must be eliminated.

A point that should not be neglected in the definition of discrimination and can be a fundamental thing in discrimination is that the difference based on conditions beyond human control is immoral and irrational; But the difference is based on things that are within the control of humans and based on effort, effort and voluntary action; It is moral and rational; For example the difference is due to ethnicity and gender, which is irrational and immoral; But the difference based on the amount of effort and the score that people get is completely rational and moral. or place of birth and parents, race is the criterion of difference, it is incorrect; Because it is not at the disposal of a person.

## B) Factors of Discrimination

Presuppositions and stereotyped behaviors in the range of discrimination are strongly influenced by the history, economy, political regime of social institutions, and cultural background of countries. Presuppositions and prejudices, tolerance, and intolerance towards discrimination are formed through the ruling values of a society at different times. At the same time, related values and principles, organizations, and social movements play a key role in reducing the tolerance of individuals and society towards discriminatory behaviors and practices. As a result, the factors and grounds of discrimination should be searched in the context of the economic, political, social, and cultural history of the countries, and its tolerance and non-tolerance are strongly derived from the (historical) values of a society.

Another point that should not be neglected is that the factor of discrimination should not be considered as its type, as in the definition of Convention No. 111, various factors of discrimination are listed: Discrimination is any difference, deprivation, and preference based on race, color, sex, religion, political opinions, national origin, ethnicity, or social background that affects the loss or damage of opportunities or equal treatment in the field of employment and occupation. (Convention No. 111, Article 1)

Factors and grounds of discrimination are not limited to those mentioned in Article 1 of Convention No. 111. (Gender, religion, race, history of ancestors, political belief) Discrimination should not exist, regardless of its factors; In this sense, any unjustified factor that causes discrimination is important, not the type of factor and its nature. Therefore, countless factors can be counted that cause discrimination that is not accepted.

Convention No. 111 does not deal with age discrimination; However, the 1980 Recommendation of the Elderly Workers No. 162 states that elderly workers should have equal treatment and opportunity without discrimination based on age. In this type of discrimination, equal opportunity is lost or damaged in different issues in different areas of collective life; For example: it is possible that the age of forty and above may be restricted or prohibited in employment and occupation.

According to the Convention on the Elimination of All Forms of Racial Discrimination, discrimination based on race is any difference, exclusion, restriction, and preference based on race, color, appearance, or ethnic and national origins, that aims to destroy or harm identification. Be involved or apply the following issues: food equality, human rights, or political freedoms in economic, political, social, and cultural fields or any other field of collective life. (Article 1, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)). Obviously, in the work sector, the aforementioned factor is effective in eliminating equal opportunity or harming it.

### C) The Realm of Prohibition of Discrimination and Equality of Opportunity and Treatment

The Convention and Recommendation No. 111 refers to any work and job in a general style and does not contain any regulations that limit their scope, whether it is related to persons or jobs; It will include all people and all sectors, both public and private; (M. Humblet, First Edition 2002, P. 65) It covers all those who work, both independent and salaried. Both documents have clearly defined the conditions of employment and occupation, in addition to access to professional training, and access to work. Discrimination does not accept limitations in its territory, it will include every person and every job and situation. There is no limitation in it. Conventions and recommendations on discrimination include all people and all sectors, including work in the public and private sectors. Both the convention and the recommendation against discrimination by using the terms employment and occupation include access to professional training, access to work and jobs, as well as the terms and conditions of work based on the second paragraph of the recommendation against discrimination of all persons from opportunity and treatment They must have equality about the following subjects:

#### 1. Discrimination against Professional Employment Organizations

Sometimes discrimination may happen in the case of labor and employer organizations; It means that the government should discriminate in the field of the right to organize, freedom of association, and the right to collective bargaining. Granting licenses to some labor and employer organizations and preventing the activity of other labor and employer organizations is discrimination.

#### 2. Health and Illness

Illness and disability that do not affect the work of workers should not cause discriminatory behavior and unequal opportunities. Today, the debate that very dangerous diseases are the cause of unequal treatment in matters of employment and occupation in the assumption of its ineffectiveness on work and its environment, is itself a major debate in international labor law. Mere illness should not cause deprivation, except in some special jobs such as food production, spices, and the like.

#### 3. Education and Training

Skill, education, knowledge, and training are some of the most relevant factors that determine people's opportunities and behavior in the labor market. As a result, people should have equal opportunity and treatment when they are ready to enter the job market or get promoted. Convention No. 111 refers to vocational training in a very broad sense, which includes any training and education necessary for access to work, employment, and occupation. As a result, any kind of discrimination in the types of education that causes people to lose the opportunity to work and is given to other people means discrimination and

will be prohibited. In this assumption, there is no direct discrimination; But it will be considered indirect discrimination.

#### 4. Work Conditions

Sometimes discrimination may be applied in the field of working conditions; Such as the amount of wages, annual vacation, periodical rest, safety of the work environment, healthiness of work, types of leave, overtime hours, amount of working hours, age conditions, type of work in terms of being dangerous, day or night work.

Convention No. 111 of 1958, Paragraph 2, Clause (b) emphasizes the importance of eliminating discrimination about working conditions. This convention requires the following matters:

- Progress and development of people's personality, experience, ability, and background;
- Safety during work;
- Equal pay for work of equal value;
- work conditions; Such as working hours, rest time, paid annual leave, job security, occupational health measures, social security provision, welfare facilities, and benefits provided in connection with work.

#### 5. Access to Jobs

Discrimination may sometimes affect the ability of self-employed people to earn a living or start a self-employed business. Discrimination may be effective on specific substantive conditions that are necessary and necessary for a job; such as access to land, trade permits, licenses or certificates of performance, and services of a related commodity; For example: the law is regulated in such a way that certain persons cannot access a certain land; For example: Convention No. 111 stipulates that locals and natives of a country should be able to earn income through their traditional occupations. In such cases, the development and promotion of the work program needs to include the fact that natives and locals have control over natural and environmental resources or over their traditional residence areas. (International Labor Organization 2011, P. 48) In the framework of the land development policy, the government has assigned land to certain groups in specific historical periods, or the worst situation, the Mamluk land has placed one social group at the disposal of another social group, which is highly discriminatory. Oppression is consistent with inequality of opportunity. The policy of forced migration of the natives of a place has been a factor since a very distant past to deprive a certain group of their ancestral land. It is clear that in the mentioned situations, native work and jobs disappear by themselves. Because the base of the works means all types of land are far away. Also, the policy of land acquisition unequally provides land to a specific group, which itself causes discrimination and creates opportunities for those who have an unjustified factor; It means the factor of descent, religion, race, ethnicity, political belief, and the like. Hence, access and lack of access are also a measure of job access discrimination.

6. wage equality

The principle of equal pay between men and women for work of equal value was first foreseen in the Equal Pay Convention, 1951, No. 100. Later, this matter was included in Convention No. 111, which extended the protection to the prohibition of discriminatory wages in all matters of Convention No. 111. In Convention No. 100 and Recommendation No. 98, equality in wages has been proposed beyond equal or similar work, which means work of equal value, which means the value of work from the perspective of calculating wages; That is, not only in equal and similar jobs, there should not be discrimination in the payment of wages, but also in jobs with equal value, the mentioned situation should be maintained.

#### 7. Career Development and Promotion

Workers fundamentally have the right to progress according to their personality, ability, experience, and background. This standard is used, for example, in collective agreements generally to

guide the promotion of workers in the areas of experience, background, seniority, expertise, skills, previous training, competence, or performance in a new position.

Organized discrimination in connection with promotion will lead to vertical discrimination in jobs, a situation in which individuals of a particular gender or a group of the ethnic majority will dominate at the level of the macro management of a company or economy, and the lower level of employment will be held by a particular gender or group of people. They will be an ethnic minority. (Ibid, P. 50) Perhaps the dominant majority will popularize the wrong thinking in practice that the minority is not capable of working in high jobs and that they are suitable and made for low jobs. Vertical discrimination in any society means the lack of development of job promotion in an appropriate way and the existence of discrimination. Equality in employment requires that fair conditions are considered for job promotion and that people are promoted based on that.

#### 8. Job Security or Tenure Security

Workers should have job security and should not be fired or dismissed in a discriminatory manner. Dismissal must be justified based on ability, merit, and conduct. Dismissal of workers and employees should not be without reason and based on ethnic, religious, racial, linguistic, regional, religious, and racial characteristics.

#### 9. Social Security after Retirement

Age, conditions, retirement time, etc. should not be discriminatory. Therefore, there should be no difference between them. The right to pension should not be different.

#### 10. Announcement of the National Policy and Its Implementation

The first step is to announce a national policy that should have the following characteristics: It should promote equality of opportunity and treatment in employment. The implementation of the policy should be appropriate to the internal conditions and procedures, and the implementation of the policy should not be in such a way that all forms of discrimination are immediately eliminated; The accuracy of the national policy should definitively eliminate all types of discrimination mentioned in the convention.

In Article 3 of the policy convention, the following actions are listed:

- Request the cooperation of labor, employer, and other appropriate institutions to promote acceptance of policy implementation;
- Legislation and training programs should be considered to ensure the adoption and monitoring of this policy;
- Legal regulations, administrative and practical training that are contrary to this policy should be revised and changed accordingly;
- The implementation of the policy should be under the direct supervision of the national authorities;
- To ensure compliance with the policy in educational, professional activities, employment services, and professional guidance, these works must be done under the direct supervision of public authorities.

#### 11. Equal Treatment of Male and Female Workers and Family Responsibilities

Due to their physical condition, women have more family responsibilities than men, and this situation will cause women workers to be in a difficult situation, which should be supported, and because of family responsibility, women and men should not be discriminated against. Paying attention to this issue and providing equal treatment will make women fulfill their family responsibilities not be unemployed and face fewer problems. The meaning of family responsibility is managing and raising young children, taking care of young relatives, and the like.



In Convention No. 156 and Recommendation No. 165, it is emphasized that family responsibility should not by itself cause the termination of the employment relationship and dismissal of the worker. In other words, the worker should not be fired because of family responsibility and only for that reason.

## 12. Equal Treatment of Foreign and Domestic Workers and Prohibition of Discrimination between Them

In general, the view of the International Labor Organization is that foreigners who work in a country should enjoy the same rights as domestic citizens. In this context, Convention No. 97 of 1949 (revised) in Article 6 regarding the protection of migrant workers, stipulates that there should be no different treatment between domestic and foreign workers in the following areas: 1. In matters that are regulated by law, regulation or subject to the control of executive authorities; 2. Wage, family, working age, overtime, working hours, domestic work restrictions, education and participation, youth work; 3. membership in labor unions, the right to collective bargaining; 4. The right to compromise and 5. Social security or the same situation is generally accepted in the 2nd Convention. This convention seeks to guarantee the human rights and human dignity of migrant workers and their families. In the Migrant Workers Convention (supplementary regulations) 143 of 1975, the eleventh section titled Equality of Opportunity and Treatment in Article 10 states: For all the members of the convention for whom the convention is applicable, they must announce and follow the policy that this policy is in the manner of It should be formulated suitable for the conditions of the country, to promote and guarantee equality of opportunity and treatment in the field of employment and occupation, labor unions, social security, cultural rights and social freedoms for migrant workers or their family members who are legally in a land. In Article 1 of Recommendation No. 151 of 1975 under the title "Equal opportunity and treatment", it is stated: All migrant workers and their families who are legally in a country must have equal opportunity and effective treatment with the citizens of a country about the following issues. Have: 1. access to professional guidance and employment services; 2. Professional training and employment of your choice; 3. promotion according to individual characteristics, experience, and efforts; 3. job security, reemployment, and retirement; 4. equal pay for work of equal value; 5. Working conditions such as working hours, vacations, rest hours, health conditions, safety of the work environment, and 6. Membership in labor unions, and exercise of various rights related to labor unions.

Therefore, there is not much difference between domestic and foreign migrant workers in all labor fields; Because the international labor standards aim to guarantee the human rights of workers, which is a protector of human dignity. The general approach is non-discrimination between domestic and foreign workers. The mentioned situation is caused by a humane view of the human rights of workers.

### e) Different Behaviors of Roa

As mentioned before, any difference, exclusion, restriction, or preference is caused by unjustified factors of discrimination, and if the factors are justified, it is not discrimination and it will be valid. Among the elements of the definition of discrimination were unjustified factors, some of which are included in the definition of Article 1 of Convention No. 111.

Unequal treatment due to inseparable conditions of work, unequal treatment due to the nature of work, and inherent conditions of work will not be discrimination and is allowed. In other words, the difference, deprivation, or preference based on the professional qualification for employment in a certain profession is not discrimination. Naturally, specialist and non-specialist workers will not be treated equally in hiring and employment. Because many jobs cannot be done without expertise and the behavior between the two types of labor should be different.

In Convention No. 111, in Article 1, Paragraph 2, it has been stated in the first step that any difference, exclusion, and preference in some jobs based on the inherent issues of the job will not be discrimination.

Of course, it should be noted that in some cases the concept of professional qualification; is questionable as in the following cases: a man and a woman who can both handle a job, or having or not having certain opinions to hold a job that is related to the security of a country, or a person who has acquired the citizenship of a country for a short period, permanently or for a while. be deprived of holding a certain job; For example: a person who has acquired the citizenship of a country for 5 years cannot hold some jobs. Is this situation subject to different rules or not? It is not possible to provide a specific answer for it.

### 1. Different Behaviors Based on Inherent job Conditions

All actions affecting a group of people are not discrimination in themselves. Therefore, actions that are appropriate and necessary to achieve specific goals will be allowed. The inherent conditions of a job refer to the necessary, appropriate, and objective conditions that job applicants and workers must have, to be able to perform the functions, duties, and responsibilities of the job in question. In exceptional cases, the characteristics of people such as gender, religion, and lack of specific disorders can be an inherent requirement of the job that people with those characteristics can perform the special task of the job in question; For example: gender can be an inherent requirement of male and female roles used in theater. It means that the role of a woman should be performed by a woman unless the director uses a man with changes in the role of a woman. Political belief may be an inherent requirement for a high position in government institutions. Islamic belief is a necessary condition for a butcher to prepare halal meat. The conditions give preference or exclude some people, which is based on characteristics, and for these conditions to be acceptable, it is necessary that: 1. be objective and justified; 2. be inherent or necessary for a job; and 3. It should not be inappropriate, which means that it should not be too limited and exclusive, more than what is required for a job.

If the above conditions are not present, any difference will be indirect discrimination. It must be assessed on a case-by-case basis whether discrimination has occurred.

The level of education, knowledge, and skill of people is usually directly related to efficiency and usefulness in a job. Therefore, such factors are generally considered as the inherent conditions of a job. The labor market requires people with high knowledge and skills. Knowledge and skills are among the things that are available to humans and are obtained through effort and work, and they are among the factors based on which people are hired and promoted, and it is not contrary to reason and logic. As a result, it will not be discrimination and has no rational justification.

### 2. Different Behavior in Specific Jobs

Another category of jobs where preference, difference, and exclusion are not discrimination according to Article 4 of Convention No. 111, are those that affect people who have been justly and judicially accused or committed acts harmful to the security of a country, provided that the right There should be an appeal for the mentioned persons to the competent institutions established by the national procedures. As a result, in such cases, there are two conditions for non-discrimination: the crime that has been accused or committed is harmful to the security of the country and the affected person has the right to complain to the relevant legal authorities.

### 3. positive Discrimination

The third category, based on Article 5 of Convention No. 111, is people who need special support and assistance. Article of Convention No. 111 states: "Any support or assistance measures accepted in other conventions and recommendations by the Conference of the International Labor Organization shall not be considered discrimination." Of course, the Convention has proposed a specific mechanism for such support and assistance in Article 5, paragraph 2: each member may, after consultation with representatives of workers and employers or organizations, if any, determine specific measures to provide

to individuals. It is foreseen with special conditions. Of course, people who have been identified as needing special support and assistance due to reasons such as gender, age, disability, family responsibility, or cultural and social status in general.

If special measures are considered for them in the field of recruitment and employment, it will not be discrimination; For example: social groups that have been placed in an unequal position in the past should be supported so that they can leave their past unequal position behind and without special measures such a situation will never happen. The ground for their progress and progress will be provided when they leave behind the oppressive inequalities of the past. Especially if the cause of this inequality is the discrimination applied in the past by the government. This situation may be true for minorities in the countries of the world. From the point of view of human rights, such measures are the positive obligations of the government, the government is obliged to perform such measures, which are called the positive obligations of the government from the point of view of human rights; That is, to leave behind the unfavorable situation of the past, some social groups need positive action.

#### h) Effects and Consequences of Discrimination

Discrimination will affect life in different dimensions and negatively affect living standards in the following ways:

exclusion from the labor market; Paying low wages; low quality of life and job security; Being exposed to crime, violence, abusive behavior, losing opportunities in the fields of education, training, career advancement, personal development, and the like.

Discrimination in its nature is humiliating, and on the other hand, it is not compatible with human dignity; It means that those who face discrimination are also humiliated. In some cases, minority groups face discrimination, are considered inferior, and are ignored. Discrimination at the internal level increases the tension between social groups and this is one of the indicators and signs of its existence in the society. At the international level, it puts sustainable peace at risk. Therefore, the International Labor Organization has two main goals in this field: 1. Eliminating any type of unequal behavior and 2. Promoting equal opportunities.

On another level, discrimination has very wide and varied consequences: anxiety, depression, helplessness, retardation, low self-esteem, boredom, sadness, fear and terror. Discrimination, especially racial discrimination, not only hurts mental health but also hurts society. Racial discrimination will cause ethnic cleansing mass murder, slavery, and oppression. It will also cause huge moral, cultural, and social losses. Finally, it will end up with negative effects on the society.

Discrimination will limit people's freedom to get a job they like. Discrimination is harmful to the opportunities of women and men; Because it has negative effects on the development of talent and skill acquisition, and on receiving rewards and wages based on their ability and expertise. Discrimination will produce inequality in labor market outcomes and at the same time will put certain groups at a disadvantage.

In addition to being contrary to human dignity, discrimination is not compatible with productive, useful, and efficient work; Because when people are not hired and employed based on merit and competence, the work is not done desirably and appropriately and it harms the efficiency and economic productivity will be damaged, and as a result, it is to the detriment of the whole society.

Discrimination in hiring and employment aggravates and makes poverty permanent, while poverty will promote discrimination in work in a wrong cycle, and poverty itself will cause discrimination in work to develop. When several citizens are deprived of basic resources and have the rest of the resources, it will increase capital and use more social resources, while the poor cannot use the available

resources due to poverty. When someone does not have the necessary knowledge due to previous deprivation, they will automatically be denied employment in jobs with the necessary and excellent expertise. Lack of work and non-productive and uncertain work is one of the main factors of material deprivation and vulnerability experienced by poor people. (International Labor Office Geneva, First Published 2003, P. 27) As a result, it should be accepted that there is a close relationship between poverty and discrimination. Whenever there is legal discrimination against a certain group of society, poverty will be an inseparable cognate of the poverty of the group in question, and finally, discrimination will violate human dignity, social justice, and morals due to its unfortunate, diverse, and permanent consequences.

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