

**ENDING LABOUR MARKET GENDER DISCRIMINATION - BRINGING GENDER
MAINSTREAMING INTO PARLIAMENTARY LAWS AND INSTITUTIONS**

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Introduction

With the world dependent on women's work for its prosperity and women representing the majority of the world's poor, ending labour market gender discrimination is a critical building block to securing sustainable development and reducing poverty. Given the state is the primary guardian of human rights compliance for those within its borders, parliamentarians have a special governance role to play in securing labour market gender equality.

Globalized labour markets still continue to deny the world's women one of the most basic human rights – the right to non-discriminatory work and income. Systemic gender inequalities permeate all aspects of women's work lives, including whether or not they have paid work at all and the conditions of their work. This discrimination takes many different forms - some which are new but many which have long existed. The ILO and world countries measure "decent work" by reference to whether work is available, freely chosen, productive, sustainable, equitable, secure and dignified. On these criteria, the number of women internationally who are engaged in "decent work" lags far behind that of the world's men.

This paper highlights for parliamentarians the discriminatory and gendered patterns of global labour markets and the international gender equality standards and norms which reflect the international consensus on how to end such systemic gender discrimination. The paper then reviews key challenges and priority issues which must be addressed in order to mainstream gender equality thinking and actions into parliamentary laws and institutions which govern the labour market.

I. The Gendered Labour Market: Globalization and Patterns of Inequality

Global labour markets are marked by five significant trends affecting women's labour market inequalities with industrialized and developing countries alike sharing these trends. The burden of inequality falls greatest on women workers where poverty, the informal economy, weak employment regulation, racial, ethnic and disability discrimination and violence are most pronounced.¹

These five trends are as follows:

1. More women are working for pay. Over the past 20 years, this shift has been linked to the expansion in export-led industrial development associated with globalization. Female wage labour participation varies widely from country to country but in less than half the world are women even approaching parity with men. The percentage of working women in salaried and waged employment increased from 41.8% in 1997 to 46.4% in 2007.
2. Over the past 20 years, women's wages have improved gradually, yet nowhere have women achieved average wages which equal men's wages. In the European Union, the pay gap has remained virtually unchanged at 15% across all sectors. Where the wage gap has closed this is at times due to a drop in male wages rather than an increase in women's.

¹International Labour Organization, Global Employment Trends for Women , March, 2008; and ILO, Facts on Investing in Decent Work For Women, ILO http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_090956.pdf

3. Occupational segregation for men and women continues. Despite the first two trends, men and women continue to do different work in different workplaces. In this context, different for women is usually “bad”. Within both the formal and informal economy, men dominate higher-paying “production” jobs and women dominate lower-paying “caregiving” or “homebased” or informal jobs. This sex segregation in work corresponds with a value system in which men’s work is considered superior economically, socially and legally. Women’s full integration into the labour market continues to be resisted and surrounded by patriarchal stereotypes, prejudices, misconceptions and culturally-based expectations about gender roles and what constitutes “valuable work”.
4. Women continue to carry a double burden. They continue to balance the demands of paid work and the demands of unpaid care work in sustaining families and communities. This impacts on the economic choices that are available to women. Women’s double burden and time poverty are exacerbated as women are forced to take on added domestic obligations as the population ages, global poverty increases, HIV/AIDS rises internationally, and states roll back, privatize and eliminate public services,.
5. Women’s work is concentrated in precarious work in both the formal and informal economy. Although women’s labour force participation has increased, this growth has come largely in such precarious work mostly in the informal economy through self-employment, part-time employment, casual and temporary employment and homebased low income work. Such precarious work is a) highly vulnerable; b) with very low pay and irregular income; c) is excluded formally or in practice from legal and regulatory frameworks and d) lacks access or effective to employee and social security benefits. In 2003, about two-thirds of the female work force in the developing world (outside of agriculture) was through the informal economy. This includes home-based work, street vending, and the sex trade.² Increasingly some women have no “employer” at all as many become self-employed, are in disguised employment or work as own account workers.³ This means they are also denied access to the legal protections and benefits which employed workers have. With trade liberalization in the agricultural sector, some women lost their livelihoods in that sector and face discrimination as producers in gaining access to the new economy activities.

In sum, globally, women continue to work in environments characterized by unfair labour practices and work conditions: they face discrimination, unequal and low-wages, and few opportunities for participation in decision making, career advancement and long-term employment stability. Poor women are mostly unable to work themselves and their families out of poverty.⁴ The persistence

²Ruwanpura, K. 2004 *Quality of Women’s Employment: A Focus on the South*. Decent Work Research Programme, International Institute for Labour Studies. Online: International Institute for Labour Studies, <<http://www.ilo.org/public/english/bureau/inst/research/crbien.htm>.

³ Vosko, Leah, (ed) *Precarious Employment* Kingston; McGill-Queen’s University Press, 2006

⁴World Bank, *Globalization, Growth and Poverty: Building an Inclusive World Economy*. 2001, The World Bank Group. online www.worldbank.org.; and World Bank, *World Development Report Equity and Development*, 2006; and Ruwanpura, 2004, *supra*

of this picture of systemic labour market gender discrimination led world governments and institutions to develop the international gender equality standards set out in the next section. A one comparison of these standards to the picture drawn above, makes it clear that nation states and their parliaments have not been able to effectively secure the protection of those rights for the women who work in and across their borders.

Globalization has clearly opened some opportunities for women in more industrialized and developing countries to improve their position. But at the same time, in order to attract transnational companies (TNC's) and compete in the global production system, many nation states have eased or refrained from legislating or enforcing equality protections. Low paid women are often seen as a country's comparative advantage.⁵ Others have legislated formal measures but failed to enforce them or the measures have failed to achieve their intended results.

National markets labour and work conditions are significantly affected by international or regional trade arrangements and investment, the international financial institutions and transnational corporate businesses practices⁶ with the new economy often leading to structural adjustment programmes, deregulation, tax cuts, privatization of public services, anti-collective bargaining laws and business-friendly export processing zones, labour and human rights are often seen as a barrier to trade and growth. These policies also reduce state resources and reduce its capacity to regulate and implement laws and policies which protect the labor rights of women. They can also drive governments to further depend on underpaid women's work to deliver the remaining public services and on women's unpaid care and community work when public services are privatized or eliminated.⁷

II. International Gender Equality Standards

1. Systemic Problem Needs Systemic Remedies

The right to a labour market free of gender discrimination is a fundamental human right and an ILO core labour standard. The international legal system governing labour markets is made up of many intersecting and overlapping instruments. They are set out primarily in ILO Conventions and Recommendations but are also contained in UN and regional instruments. These standards are the foundational basis for the international community's commitment in goal 3 of the Millennium Development Goals and the promotion of gender equality and women's empowerment. Together these instruments form the world's legal framework within which women's specific rights can be

⁵ ILO Director-General. 2003. *Time for Equality at Work: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, International Labour Conference 91st Session 2003, Report I(b), Geneva, International Labour Office; and ILO Director General, 2007, *Tackling the Challenges: Equality at Work*, Geneva.

⁶ World Bank, 2007; and Aidt and Tzannatos, 2002, *Collective Bargaining and Country Economic Performance Experience of the Empirical Literature*, Occasional Paper No. 1. Washington D.C.; The World Bank, Social Protections Unit.

⁷ ILO Director-General. 2003 and 2007, *supra*; osko, 2006 *supra*; and Pat Armstrong and Mary Cornish. 1997. *Restructuring Pay Equity for a Restructured Work Force: Canadian Perspectives* Oxford, Gender, Work and Organization, UK: Blackwells.

strengthened, states' positive obligations can be clarified, and effective mechanisms can be established and improved to monitor compliance with international obligations. At the national and local level, country specific labour laws and policies apply.⁸

International law instruments have evolved over the past 50 years to recognize the systemic and multi-layered nature of women's labour market discrimination. In recognizing the systemic dynamics and need to level the economic playing field for woman, international instruments have become increasingly detailed, requiring national governments and workplace parties to take positive, proactive steps to establish substantive equality, and established reporting obligations and mechanisms for external monitoring. They have also recognized women's specialized needs as workers - see for example the ILO conventions on maternity protection, workers with family responsibilities, part-time work and home work. Women's economic inequality is inextricably intertwined with social and political discrimination on the basis of sex. The multi-faceted dynamics of sex discrimination require comprehensive and systemic remedies as the building blocks of a discriminatory labour market are very deep.

Discriminatory labour conditions are sustained by discrimination in education, health, violence against women, political and social exclusion. Documents like the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Beijing Declaration and Platform for Action (BDPFA) point to the need for systemic change to build sustainable equality. Changes must encompass a) equal access to education; the foundation for workplace inequality begins early. b) equal access to vocational training and retraining; c) equal access to employment opportunities; d) equal terms and conditions of work, promotion, evaluation; e) equal remuneration; f) the right not to be discriminated against due to pregnancy or family responsibilities and so on. International labour law has transformed from a traditional focus on the regulation of male dominated "standard" work to taking a more systemic, inter-disciplinary and inter-institutional approach that can address the social, political and economic roots of women's labour market discrimination.

2. International Guiding Principles

The following principles can be distilled from the international instruments, reflecting a world-wide consensus on the nature of labour market inequalities facing women and the steps which need to be implemented to redress those inequalities.⁹

1. Labour market equality for women is a priority which warrants immediate attention and concerted action from all governments. Every available measure must be explored and the maximum available resources must be allocated towards securing these objectives. The achievement of equality for women in all aspects of life is a fundamental precondition for achieving a sustainable, just and developed society;
2. Gender-based employment discrimination is systemic in nature. Traditional patterns of conduct and conceptions of what constitutes "valuable work" must be transformed in order

⁸ ILO, 2007, *supra*; and Cornish, Mary, Fay Faraday and Veena Verma, (2006) "Securing Gender Justice, *The Challenges Facing International Labour Law*." Craig J. And Lynk M. (ed.) *Globalization and the Future of Labour Law*. Cambridge: Cambridge University.

⁹Cornish, et al, 2006, *supra*.

to achieve greater workplace equality;

3. Securing gender justice requires a multi-faceted approach with measures requiring governments and employers and trade unions to take proactive steps coordinated through national action plans to address gender equality on a systematic basis;
4. Women's right to equal pay for work of equal value is a fundamental labour standard and human right of the highest priority;
5. Governments should recognize the precarious position of female migrant workers and must implement measures to protect this group against involuntary confinement, forced labour, trafficking, and all other forms of labour and human rights abuse;
6. Governments should apply a gender perspective in the creation and implementation of labour laws. They must ensure that women play an active role in this process;
7. Governments should ensure and guarantee equality outcomes. As employers, they are held to the highest standards. Government must enforce adherence to workplace equality laws by public authorities and institutions;
8. As a follow up to the BDPA and Beijing+5, employers (including private sector employers) have an obligation to take proactive steps to implement equal pay for work of equal value, to eliminate gender segregation in the labour force, and to review, analyse and reformulate wage structures for female-dominated jobs with a view to raising their status and earnings;
9. Achieving equality is connected with the operation of other fundamental labour rights, including freedom of association and the right to collective bargaining. The methods to achieve labour market gender equality must recognize that collective bargaining is an important mechanism to eliminate wage discrimination and to secure adequate work conditions. In formulating legislation and taking steps to eradicate discrimination, and protect fundamental human rights, governments should consult employers, trade unions, and civil society;
10. Governments should create effective enforcement mechanisms for ensuring compliance with international and national labour law standards. All labour complainants should have access to a competent tribunal that can: adjudicate their rights; issue and enforce an effective remedy; and impose sanctions for non-compliance. Effective enforcement also should have access to legal aid for vulnerable persons seeking to enforce their rights;
11. On-going monitoring, reporting and follow up within a defined time frame are necessary in order to ensure the practical implementation and realization of gender equality and full labour participation.¹⁰

¹⁰See also ILO, 2007, *supra*; and Cornish, Mary,(2007) Closing the Global Gender Pay Gap: Securing Justice for Women's Work 28 Comp. Labor law & Pol'Y Journal 219; and Adelle Blackett, Global Governance, Legal Pluralism and the Decentred State: A Labour Law Critique of Codes of Corporate Conduct, 2001, 8 Ind. Global Leg. Stud. 401; and Vosko, 2006, *supra*.

3. The ILO “Decent Work” Framework

Globally, national governments have agreed to the Decent Work Agenda which has as its goal, to bring equitably to men and women decent work and livelihoods, job-related security and better living standards to the people of both poor and rich countries. This Agenda obliges countries to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security, and human dignity. It seeks to do this by promoting rights at work, encouraging opportunities for decent employment, enhancing social protection and strengthening dialogue on work-related issues.¹¹ While the Decent Work Agenda was originally developed and endorsed by ILO member countries, it was adopted globally through the September, 2005 UN Summit Outcome Document and the July 2006 ECOSOC Ministerial Statement.

The Agenda supports the policy convergence between informal and formal labor markets through its recognition of the continuum of production and employment relations and the many linkages and interdependencies between the formal and informal sectors. It commits countries and institutions to enhance decent work along the continuum rather than forcing all informal work to become “formal”. The goal is to eliminate the negative aspects of informality while keeping the opportunities for livelihood and entrepreneurship and promoting the protection and incorporation of workers and economic enterprises into the mainstream economy.¹² ILO member countries, enterprise organizations and employee representatives agreed in the Agenda on the need for effective and enforceable laws along with protections for self-organization and collective action while also taking steps to promote job creation. This balanced the concern of enterprise representatives that the entrepreneurial potential of the informal economy should be facilitated and the concern of worker representatives that legal and institutional frameworks are necessary to ensure informal workers can gain access to the core labor protections.¹³

III. Key Challenges and Priority Issues for Consideration

1. Introduction

With the diversity of country and women's work contexts, it is clear that the particular challenges facing parliamentarians are country specific and there is no single solution. However, there are some key challenges which generally face parliamentarians and there are some priority issues which should be considered in developing country-specific solutions.

2. The Equality Role of the State

As noted above, international human rights instruments impose proactive obligations on government to “adopt all necessary measures” to eliminate discrimination by any person, organization or enterprise. With the widespread violation of women’s labor rights, women need

¹¹ILO, 2002. *Decent Work and the Informal Economy, Report VI*. Online: <<http://www.ilo.org/public/english/standards/relm/ilc/ilc90/pdf/rep-vi.pdf>>; and UN, 2007

¹²ILO, 2002, *ibid*.

¹³ ILO 2002, *ibid*

more and effective and tailored state interventions not less.¹⁴ Such intervention takes many forms - establishing a framework of effective and resourced laws, policies, institutions and supportive measures which will translate those standards into accessible justice mechanisms. The state's leadership role as a human rights "duty bearer" means they are held to the highest standards as employer and law and policy maker.

As noted earlier in this paper, most of the world has legally bound themselves to create and implement effective gender equality mechanisms through domestic laws, policies and collective bargaining regimes. As a result, labor rights are not "optional". The only discretion should be choosing the best country specific and realistically operational way (given country capacity and resources) to identify and dismantle the long-standing patterns of systemic labor inequality. This practical, "rights-based" approach helps to prioritize such anti-discrimination measures in cost-cutting government exercises, empowers workers to claim redress, and acknowledges workers' previously marginalized contributions.¹⁵

International standards require governments to begin from the basis that systemic discrimination against women is a reality and legal mechanisms must therefore be designed so that such discrimination can be made visible and then rooted out. From this starting point, the international instruments commit governments, employers and civil society to the goal of transforming the ways in which women and their work are treated and valued.

3. The Politics and Costs of Equality and Inequality

Efforts to increase women's economic power and choices changes the balance of power and challenges the relatively privileged position of men and their work and the power of businesses and governments to profit and benefit from women's work contributions. Despite the formal global consensus, when it comes to implementation, women are repeatedly faced with the argument that state action is not necessary as the free market will end their discrimination over time. It is also argued that redressing their inequality is too costly or too complicated and therefore does not make good business sense or public policy. Some argue that in countries where a large percentage of workers make less than one dollar a day, there is a need to focus on other economic issues instead of enforcing labour standards that may not be affordable. For those countries women workers facing systemic gender discrimination are usually clustered at the unpaid or lowest paid ranks of those workers and their specific and gendered needs must be addressed and given some priority.

With enterprises and governments relying on the involuntary contributions of women's unpaid or underpaid labor to sustain their operations and economies, the equality debt owed to women continues to increase with not enough planning for how it is to be redressed. For every year of inaction the damage inflicted by the discrimination is deeper and the systemic benefits of equality fail to materialize.¹⁶ As well, the failure to take action means that women's discrimination often

¹⁴ ILO, 2007 *supra*; and Cornish, Mary,(2007) Closing the Global Gender Pay Gap: Securing Justice for Women's Work 28 Comp. Labor law & Pol'Y Journal 219; and Armstrong and Cornish, 1997, *supra*

¹⁵Cornish, 2007, *supra*.

¹⁶ Cornish. 2007, *supra*.

remains invisible when it is not addressed because other priorities are considered more pressing.

Quantifying the costs and benefits of eliminating gender discrimination is difficult, but a 2001 World Bank study documents extensive benefits from empowering women, including better health and well-being for women, children, and men; higher overall productivity and economic growth; and better governance.¹⁷ Gender inequality in employment contravenes women's right to decent work and is costly for women, their households and their communities.¹⁸ Given the large and growing number of informal workers and enterprises, particularly in developing countries, harnessing the economic potential of the informal sector requires addressing the structural inequality barriers which prevent them from developing that potential and designing measures to enhance their effective participation, including regulatory and access to justice mechanisms.¹⁹

Sustainable anti-discrimination mechanisms should include a plan for moving towards labour market gender equality over a realistic time frame along with a civil society strategy for gaining political support and measures to address any backlash which occurs.

4. Rethinking "Labor Laws and Rights" - Many Mechanisms and Actors

Enforcing workers' labor rights in a globalized economy requires an innovative and broad-based legal and socio-economic approach which takes into account the complexities of discrimination dynamics, the competing priorities for government resources and the often weak labor and judicial structures.²⁰ There is a need to recognize that the work "standard" for women includes many different types of worker and self employment relationships and equality promoting mechanisms must vary accordingly.²¹ Given that discrimination is so deeply entrenched in all aspects of the labor market exchange, a sustainable labor rights system requires a combination of transformative laws, human rights promoting institutions and supportive policy measures to address these aspects simultaneously.²²

National authorities and social partners are now considering new governance models to realize women's labour and human rights entitlements.²³ This includes reconsidering the traditional concept of a fixed and single "workplace", who is an "employee". Analyzing the conditions for

¹⁷ World Bank, 2001, *supra*.

¹⁸ Caren Grown, Geeta Rao Gupta and Aslihan Kes "Taking Action: Achieving Gender Equality and Empowering Women", prepared for, Task Force on Education and Gender Equality, UN Millennium Project 2005, UNDP.

¹⁹ World Bank, 2007.

²⁰ Blackett, 2001, *supra*; and Kerry Riddich, *Recharacterizing Restructuring: Law, Distribution and Gender in Market Reform* (The Hague: Kluwer Law International, 2002).

²¹ ILO, 2002, *supra*.

²² ILO, 2007, *supra*.

²³ ILO, THE EMPLOYMENT RELATIONSHIP, Report V(1), International Labour Conference, 95th Session 2006, International Labour Office, Geneva.; Fudge, *supra*, and Armstrong and Cornish, *supra*.

decent work along the continuum of employment from informal to formal.²⁴ The new paradigm of transnational labor and human rights law is comprised of many different equality mechanisms and actors. While the traditional parameters of labor law were contracts, collective bargaining and statutory regulation, labor law and socio-economic policy are increasingly merging.²⁵

As regulating mechanisms now involve a range of normative and binding rules including trading rules, there is a need to reconsider the interconnecting roles of the state and social partners and the new roles for other non-state actors. This includes women's advocacy organizations, consumer organizations, organizations of women entrepreneurs, trade actors, and development institutions. With the increase in "decentred" regulations, such as corporate codes of conduct enterprises and governments must take into account the "regulatory" effect and equality role of non-state actors. Given this situation, laws and regulations will need to provide the necessary framework of enterprise/trade union/women's representative rights and obligations to support women's empowerment.²⁶

5. Knowledge, Capacity Building and Dialogue

Equitable labor market governance requires that parliaments and labor market actors within a country- including the Ministry of Finance, Ministry of Labor, Ministry of Justice, national women's machinery and the judiciary operate in a gender-sensitive fashion. This should include developing mechanisms to assist in coordinating and executing their respective mandates.

Parliamentarians are often faced in carrying out their legislative responsibilities with mediating the gulf that exists between economic and legal practitioners with both expressing some frustration that their perspectives were not sufficiently understood or taken into account by the other. Increasingly there is a recognition that this gulf between the worlds of law and economics must be bridged and collaborations developed given the intersecting economic and legal barriers to women's equality. This requires better incorporation of economic perspectives in parliament's rule-making work while at the same time better incorporating the legal imperatives of women's gender equality into economic thinking.

6. Labor Market Regulation - Balancing Protection, Security and Flexibility

There is a need for parliaments to enact legal mechanisms which achieve the proper balance between protection, flexibility, security and economic growth.²⁷ At the same time that women continue to experience widespread discrimination resulting in the need for increased and specially designed labor market equality protections, many governments and enterprises, given the forces of globalization, economic restructuring and the search for low wage markets are being pressured to eliminate or reduce labor market protections which are said impede "flexibility" and/or are too

²⁴ILO:2007 , *supra*;

²⁵ILO, 2007 ,*supra*; and Cornish, 2007 ,*supra*

²⁶UN, 2005 ; and Blackett, 2001; and Cornish, 2007 ,*supra*.

²⁷World Bank, 2006, *supra*.

costly.

The World Bank's influential Cost of Doing Business Survey has made an important contribution to the worldwide need to reduce unnecessary regulatory costs and costs of entering businesses. However, by favoring countries with lesser regulations; using employment indicators which consider the "flexibility" in hiring, firing, hours of work and non-salary costs of workers; and encouraging reforms which reduce "rigidities" in the market, it has been interpreted as discouraging new regulatory measures. True "rigidities" which impede equitable growth should be distinguished from regulation which positively promotes pro women growth. Doing Business 2008 explicitly recognizes the states' role in enacting regulations to protect workers from discrimination and the role of the ILO and calls for "flexible labor regulations" which give opportunities which boost job creation without "giving up protections".²⁸

7. Mainstreaming Gender Equality into Labour Market Governance

a) Introduction

Delivering equitable outcomes for women's work along the labour market continuum requires the right mix of tailored, country-specific systemic solutions to address women's unequal conditions of work and pay. As gender-based labour market discrimination is the result of complex social interactions and deeply held sexist prejudices, redress mechanisms must confront the social, cultural and patriarchal stereotypes and restraints which label women's work as secondary or marginal and therefore less valuable or worthy of protection than men's work.²⁹ As well, starting to recognize and protect women's work helps to lessen the victimization and powerlessness which women experience in other aspects of their lives. Ultimately, long term changes to end discrimination against women also require measures to address the discrimination women face in health, education, exposure to violence, conflict and poverty.⁰³

b) Use of Mapping and Gender Sensitive Data

Securing gender equality for the diversity of women's work is a complex problem as the drivers forging discrimination against women are multi-faceted and inter-connected. There is a need to "diagnose" the national, local and enterprise or business context and circumstances. Using sex-disaggregated data, women's and men's work and pay need to be mapped along the formal/informal labour market continuum to locate, compare and understand the different conditions of both women's and men's work and the discriminatory conditions which drive the

²⁸ World Bank, 2007; Currently, the profile of the worker used in the "Doing Business" employing workers indicators is based on a full-time non-unionized male employee who has worked in the same company for 20 years, earning a salary plus benefits equal to the country's average wage during the entire period of his employment. (World Bank, 2006 c). see <http://www.doingbusiness.org/EmployingWorkers>). This profile of course has little relationship to the conditions of women workers highlighted above. For a discussion of the concerns about rigidities in employment regulations, see Doing Business - Employing Workers: The Regulation of Labor, by Botero and others, Quarterly Journal of Economics, June 2004. A discussion of the concerns about the impact of this Survey on compliance with labor standards can be found in the ILO's 2007 Report, Promoting Sustainable Enterprises.

²⁹ Ruwanpura, 2004, *supra*.

³⁰ Armstrong and Cornish *supra*; and Cornish et al, *supra*.

unequal conditions of women's work relative to men's work at each point on the continuum. Such mapping helps to bring to the foreground the other systemic barriers women face such as reconciling work and family life and gender-based violence.³¹ With women's work often invisible or discounted in the process of developing labour laws and norms, institutionalizing human rights tools such as "mapping" shines a light on the different conditions of men's and women's work and forms the human rights basis for laws and policies which raise the pay and conditions of women's work to that of men along that continuum. Based on the mapping data, equality mechanisms can be designed to address the needs of each set of women workers and the conditions which drive the discrimination against women's work at each point on the continuum.³² Attached at Annex A are two charts outlining some initial steps for such a mapping process.

c) Gender Sensitive Planning and Laws

With countries bound by international, regional and country level laws which provide for the right of women to work without discrimination, a rights-based approach to planning is necessary as it sets a legal floor for securing women's labor market equality. Working in consultation with women's voice organizations, there is a need to translate this legal floor into a combination of country-specific laws and policies which will address the context of women's work in that country along the continuum of formal and informal work. This requires laws, budgeting analysis, planning and strategies to be based on implementing gender equality promoting mechanisms which will achieve the progressive realization of those rights. Yet many countries have laws and policies which serve to reinforce rather than eliminate the disadvantage and discrimination faced by women. As well, some well-intentioned laws go off course and fail to achieve their objective.

Parliamentarians must engage in a gender sensitive analysis both at the time of considering new budgets and laws or policies and in reviewing existing ones to identify whether they are impeding or supporting women's economic empowerment and equality. As well, they should be interlinked and grounded in other poverty reducing strategies and in the country reports such as those prepared for the ILO and the UN with respect to treaty and convention compliance.

The Decent Work Agenda is designed to allow each country is to define its own roadmap to decent work in the context of the country-specific needs and circumstances. Through its Decent Work Country Programmes (DWCP), the ILO provides technical assistance to help member countries to develop plans to support the creation of decent work.³³ Using a gender-sensitive framework and sex-disaggregated data, the Agenda requires special efforts to be taken to promote the opportunities, rights, protection and voice of women in the informal economy who are often the most disadvantaged.³⁴

³¹Cornish (2007) *supra* ; Armstrong & Cornish, *supra*; Cornish et. al. 2006,*supra*.

³²Cornish et al. *supra*.

³³ILO World Commission on the Social Dimension of Globalization. 2004. *A Fair Globalization: Creating Opportunities For All*. Geneva: International Labour Organization

³⁴ILO, 2002,*supra*; and Grown, et al, *supra*.

8. Role of Enterprises

Recognizing that women work for enterprises in a number of different relationships, there is a need for laws and policies which require and encourage enterprises to pro-actively remove systemic gender discrimination from all the work and pay systems which drive the undervaluation and unequal conditions of that work, including subcontracting terms. Within a framework of mandatory gender equality laws and policies, and working with women's representatives, enterprises can then take the lead in building a culture of gender equality compliance through establishing pro-women business practices. This includes incorporating gender equality compliance in corporate social responsibility (CSR) mechanisms. The Calvert Women's Principles explicitly include the need for equal remuneration for work of equal value and non-discrimination principles and apply them to women's waged and entrepreneurial work.³⁵

9. Role of Women's Voice and Collective Bargaining

Women's voice through unions or other organizations must be at the centre of identifying and implementing appropriate labour market mechanisms. Given women's current income and power deficits, they often do not have the time, resources or information to assert their rights. Measures are necessary to enable women to exercise their collective bargaining and other labour rights and the right for their entrepreneurial voices to be heard and acted upon in economic-decision making.³⁶ The World Bank has recently underlined this role stating that "the collective organization of workers is one of the main channels for securing better and more equitable working conditions".³⁷ Equality obligations of the enterprise may also be included in the collective agreements negotiated with the trade union. As a result of corporate codes of conduct agreed to by mostly transnational corporations, often where employees are not unionized in a supply chain, corporations may also undertake equality obligations.

The global union, Public Services International (PSI) has been carrying out for many years a world wide campaign entitled "Pay Equity Now" which operates in both developed and developing countries providing resources and training materials and assisting women and trade unions to mobilize and enforce their pay equity rights.³⁸ Ontario's Equal Pay Coalition played a key role in lobbying for Ontario's *Pay Equity Act* and mobilizing support for ongoing pay equity compliance.³⁹ Some of the most effective organizing of women's voices to increase women's pay has come from organizations of women entrepreneurs, such as SEWA in India.⁴⁰

³⁵ Calvert Women's Principles - Available at <http://www.calvert.com/womensPrinciples.html>.

³⁶ Cornish et al, 2006, *supra*.

³⁷ World Bank, 2006, *supra*. Aidt T. and Z. Tzannatos, 2002, *supra*.

³⁸ See Public Services International website, www.world-psi.org/payequity for copies of the bi-monthly newsletter and the Pay Equity Resource Package.

³⁹ The Ontario Equal Pay Coalition is a group of community, business women groups and unions formed in 1976. See www.equalpaycoalition.org.

⁴⁰ Cornish et al. 2006, *supra*.

10. Extending Anti-Discrimination Measures to Precarious Work

While gender equality mechanisms to date have focussed primarily on formal waged work, there is a need to develop new mechanisms to deliver gender equitable conditions and pay/income all along the entire continuum of women's work. The increasing "precariousness" of women's work requires everyone to rethink existing strategies and laws and look at other existing labour market tools for their application to this issue. One approach is to take a more interactive approach to the scope of international gender equality standards. When Convention 100 is read with Convention 111 and CEDAW, it extends the legal obligations to eliminate pay discrimination to women in self-employment/own account work and to informal economy work, where Convention 100 job comparisons are difficult. This approach also targets the most disadvantaged women such as Aboriginal women, immigrant women, women with disabilities/HIV/AIDS and elderly women.

Establishing sectoral and national wages is an option. Centralized bargaining has traditionally tended to favour equality concerns. In the United Kingdom, in Australia, and in New Zealand, the decentralization of the industrial relations framework has had a negative impact on bargaining for gender equality, particularly for equality in remuneration.⁴¹ The recent experience in Portugal with the implementation of a sectoral job evaluation process in the restaurant sector is being evaluated for its lessons for other sectors and countries.⁴² Minimum wage laws have also been a tool of pay equity campaigns dating back to the 1970's when they formed a key part of Ontario's Equal Pay Coalition campaign.⁴³ Increases in minimum wages in developing countries have improved women's pay where the equalization of minimum rates occurred between men and women in sector-level collective agreements and where it established comparable wages across dissimilar and often sex-segregated workplaces.⁴⁴ In Chile, the Government introduced a phased-in minimum wage for household workers who are predominantly female. For poor women, pay equity is now seen more broadly as part of the overall struggle to promote economic and social rights.

11. Ending Discrimination in Self-Employment

Gender prejudice does not only infuse women's waged employment. It extends to all women's work. For self-employed women such as own account workers, contributing family workers or women in cooperatives and micro-enterprises, equality mechanisms are needed to address the gender-based prejudices which infuse the low income they receive for their labour, products or services. Successful strategies in this area could focus on closing the business income gap between men's and women's micro businesses. The World Bank Gender Action Plan includes support for affirmative action measures to support female micro-enterprise entrepreneurs to gain

⁴¹ ILO, 2003 and 2007, *supra*.

⁴² ILO, 2003.

⁴³ Armstrong and Cornish, 1997, *supra*.

⁴⁴ Janine Rodgers and Jill Rubery Perspective: the minimum wage as a tool to combat discrimination and promote equality INTERNATIONAL LABOUR REVIEW 142:4 (2003) at 547; and N. Lustig and D. McLeod. Minimum Wages and Poverty in Developing Countries: Some Empirical Evidence, in S. Edwards, ed. LABOUR MARKETS IN LATIN AMERICA: COMBINING SOCIAL PROTECTION WITH MARKET FLEXIBILITY. 1997. Washington: Brookings Institution.

access to greater incomes. As well, this can include measures to provide women entrepreneurs with social protection, such as child care supports or health services.

12. Enforcement and Monitoring

Effective enforcement means that the persons and groups who are discriminated against are empowered and enabled to achieve their rights found in equity laws and policies.⁴⁵ Such laws and mechanisms must be participative and transparent. Compliance requires constant renewal and transformation to address the ongoing changing nature and conditions of male and female work and the structure and conditions of employers and the economy. Finally, and most critically for any legal framework, enforcement mechanisms must be accessible and resourced with complaint assistance so that vulnerable women workers can access their rights.⁴⁶

As well, this requires built in monitoring mechanisms to ensure that the law is implemented in a way which will effectively achieve the labor market empowerment of women and if the impacts are not what is anticipated, that steps will be taken to change the legal mechanism to achieve the required goal. Given the scarcity of resources and need to focus energies on implementable and effective mechanisms, this analysis is essential.

Conclusion

While parliamentarians face great challenges in carrying out their gender mainstreaming equality responsibilities, these challenges also provide great opportunities for such parliamentarians to make a critical contribution to ensuring that labor markets deliver the same economic outcomes to women and men. Working with women's voice representatives and social partners, the process of mainstreaming gender equality into parliamentary laws and institutions will be an ongoing one.

⁴⁵ ILO 2003 and 2007, *supra*; Cornish, 2007, *supra*.

⁴⁶ Armstrong and Cornish, 1996, *supra*; and Pat Armstrong, Lessons from Canada, research paper commissioned by the New Zealand Government for presentation at the Pay and Employment Equity for Women International Conference convened by the New Zealand National Advisory Council on the Employment of Women, Wellington, New Zealand, June 28-30, 2004, at <http://www.nacew.govt.nz/conference2004/papers.html>.

ANNEX "A"

The Continuum of Women's Work Compared to Men's Work

Informal **Formal**
Unpaid Own Account Self-employed Periphery/Out work Standard-Core

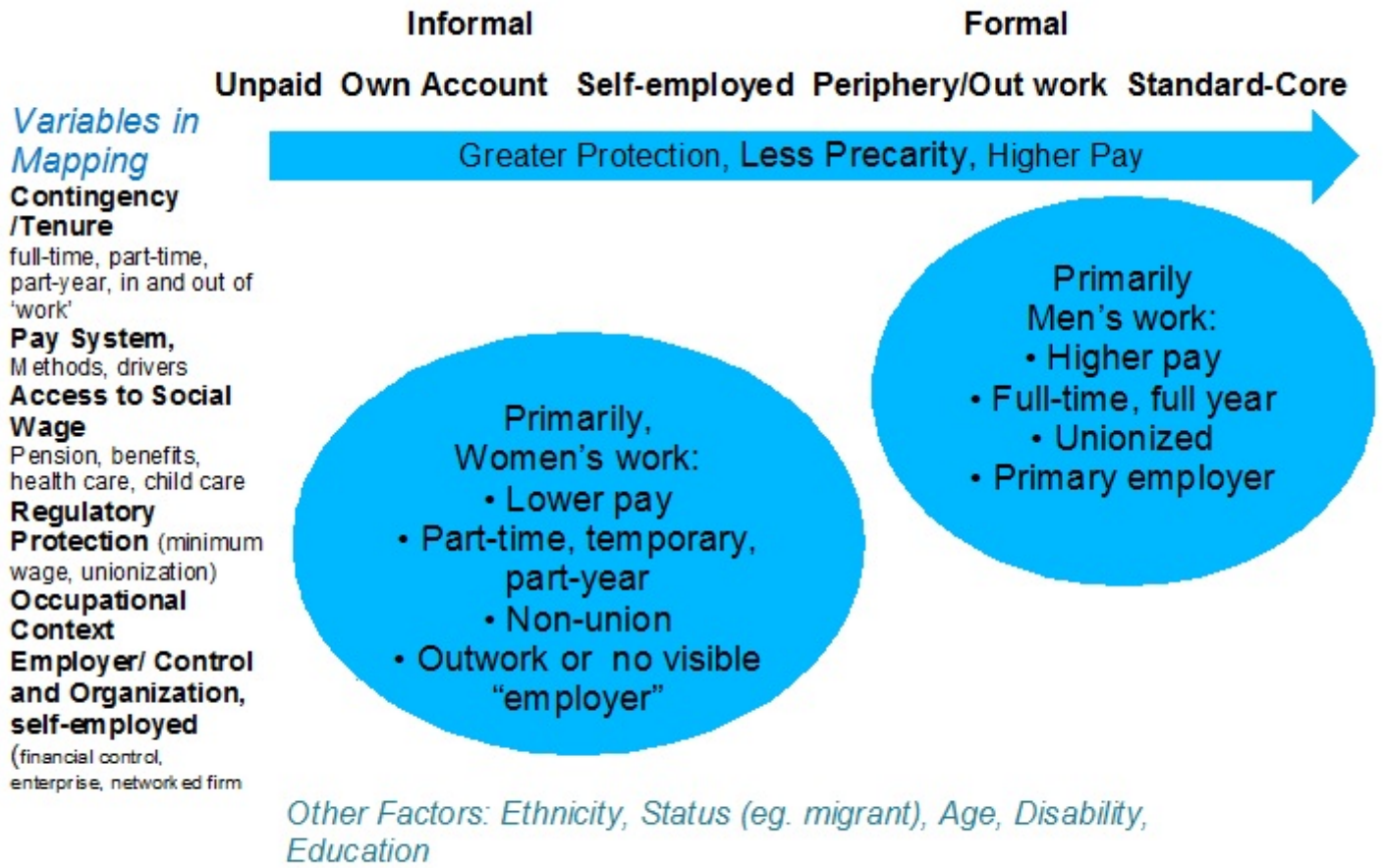
Greater Protection, Less Precarity, Higher Pay

- **Primarily, Women's work:**
 - Lower pay
 - Part-time, temporary, part-year
 - Non-union
 - Outwork or no visible "employer"

- **Primarily Men's work:**
 - Higher pay
 - Full-time, full year
 - Unionized
 - Primary employer

See Rubery 2002, Vosko (ed.), 2006, Cornish, 2007.

Mapping the Continuum of Women's Work Compared to Men's Work



See Rubery 2002, Vosko (ed.), 2006