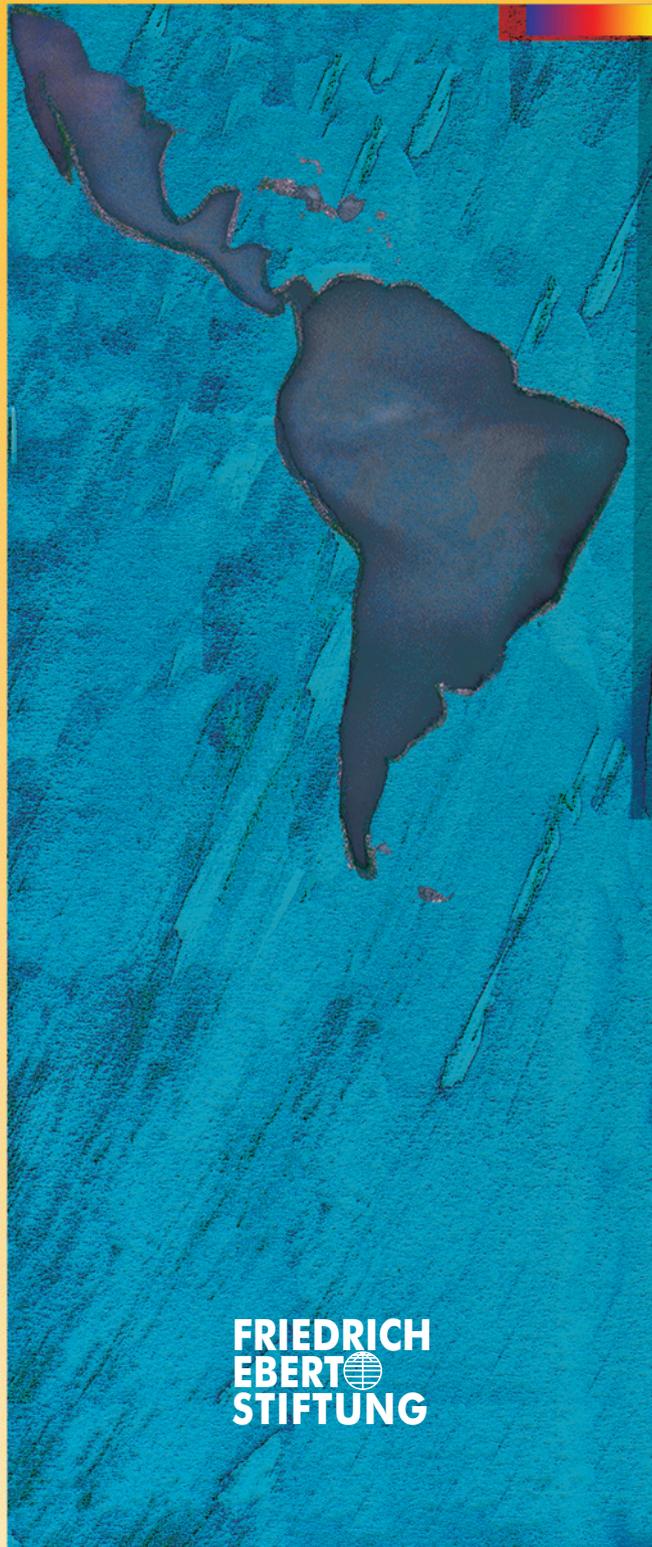


# Women in the labour market

*From injustice to affirmative action*

LORENA GODOY  
AMALIA MAURO  
ROSALBA TODARO



Women in the labour market	LORENA GODOY, AMALIA MAURO, ROSALBA TODARO
Sindicalismo internacional. La hora de los cambios	MICHAEL SOMMER, VÍCTOR BÁEZ MOSQUEIRA ARTUR HENRIQUE
Solidaridad en tiempos de crisis económica	ANNELIE BUNTENBACH, DAVID BEGG, ERICH FOGLAR, AGNES JONGERIUS, WANJA LUNDBY-WEDIN, YANNIS PANAGOPOULOS, JOÃO PROENÇA, JAROSLAV ZAVADIL
Saliendo de la crisis: hacia un modelo de crecimiento más equitativo y sostenible	JOHN EVANS DAVID COATS
Hacia un fortalecimiento de derechos laborales en el trabajo de hogar: algunas experiencias de América Latina	MARY ROSARIA GOLDSMITH CONNELLY ROSARIO BAPTISTA CANEDO ARIEL FERRARI, MARÍA CELIA VENCE
Las directrices de la OCDE para empresas multinacionales en América Latina: experiencias, aprendizajes y propuestas desde la perspectiva sindical	ÁLVARO ORSATTI HILDA SÁNCHEZ
Responsabilidad social empresarial: Perspectivas jurídicas para estrategias sindicales	ÓSCAR ERMIDA URIARTE GUILLERMO GIANIBELLI ÁLVARO ORSATTI
Los acuerdos marco internacionales: posibilidades y límites de un nuevo instrumento de la política sindical internacional	TORSTEN MÜLLER HANS-WOLFGANG PLATZER STEFAN RÜB
Sindicalismo latinoamericano y política de género	DIDICE GODINHO DELGADO
Movimiento sindical-gobiernos progresistas: Un primer balance en la región	GONZALO MARTNER / ÓSCAR ERMIDA URIARTE / FERNANDO PORTA / CARLOS BIANCO / RENATO MARTINS
La perspectiva de género en la dimensión sociolaboral de los acuerdos de asociación	DIDICE GODINHO DELGADO PAOLA CAPPELLIN
Caminos para incluir la dimensión sociolaboral en acuerdos de asociación: el ejemplo UE-Mercosur	ÓSCAR ERMIDA URIARTE HUGO BARRETO GHIONE OCTAVIO C. RACCIATTI
La Coordinadora de Centrales Sindicales del Cono Sur. Un actor con mirada regional en el Mercosur	NATALIA CARRAU
América Latina y Caribe: los acuerdos marco en la estrategia de las federaciones sindicales internacionales (FSI) ante las empresas multinacionales	ÁLVARO ORSATTI
Sindicalismo y género. Experiencias y desafíos de la Central Única de Trabajadores de Brasil	DIDICE GODINHO DELGADO
Cómo puede enfrentar el sindicalismo a las empresas multinacionales	KJELD JAKOBSEN
El sindicalismo bajo el gobierno de Lula	REINER RADERMACHER / WALDELI MELLEIRO
El sindicalismo mexicano: entre la marginación y la recomposición	SVENJA BLANKE
La importancia estratégica de la Plataforma Laboral de las Américas	JULIO GODIO
Los acuerdos de asociación entre América Latina y la Unión Europea: el papel del movimiento sindical	ÁLVARO PADRÓN CARRAU
El sindicalismo frente al Mercosur	MARIA SÍLVIA PORTELA DE CASTRO
La política laboral de los gobiernos progresistas	ÓSCAR ERMIDA URIARTE
¿Hacia una nueva arquitectura sindical en América Latina?	ACHIM WACHENDORFER

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*November 20th, 2012*

A N A L Y S I S   A N D   P R O P O S A L S

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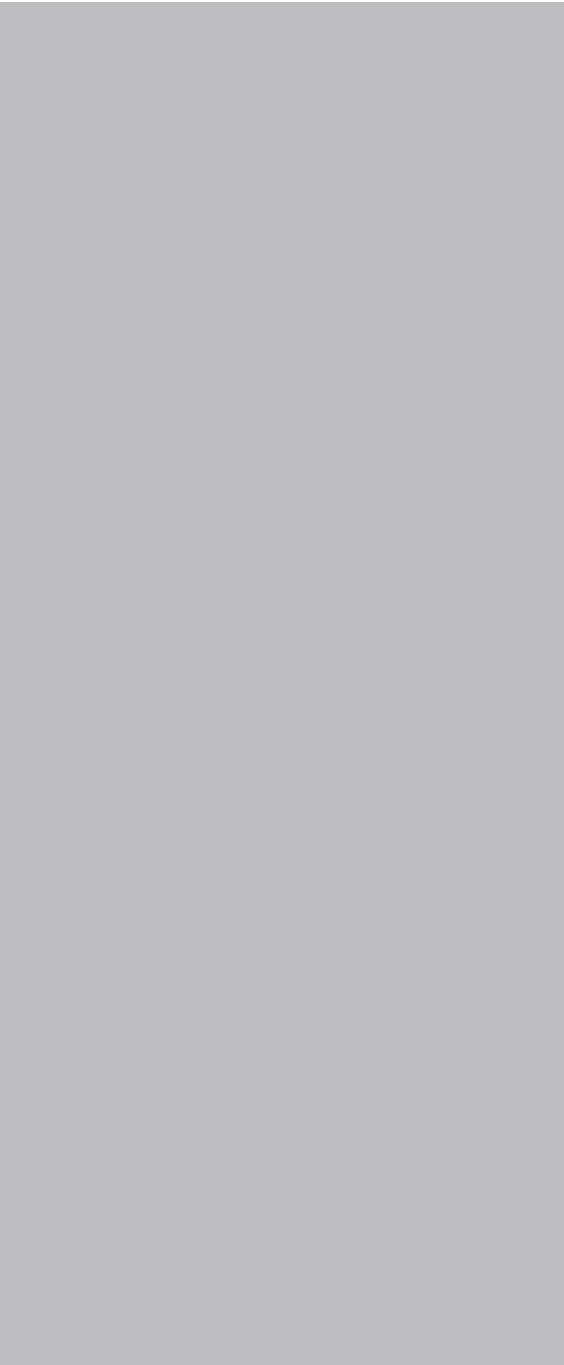
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# Index

Preface	5
Introduction by the Trade Union Confederation of the Americas	7
Gender discrimination in remunerations	13
I. Conceptual framework	13
1. <i>Definition</i>	13
2. <i>Factors that explain gender-based discrimination</i>	15
3. <i>Arguments to eliminate gender-based pay inequalities</i>	16
II. Gender pay gap in Latin America	17
III. Emblematic cases	19
IV. Recommendations for the work with worker's organizations and trade unions	22
1. <i>Pay discrimination, a trade union issue</i>	23
2. <i>Building alliances</i>	24
References	26
Abbreviations	27



# Preface

This document informs, in its first paragraphs, that according to the International Labour Organization, gender inequalities in pay are among the most resilient features of labour markets across the world.

Any fight to eradicate gender/sex-based discrimination entails a first goal: providing visibility to injustice and attaining legitimacy in order to enunciate and implement actions aimed at addressing this issue. Women workers then face a two-front battle in the fight for equality: one in terms of the work relations with employers and another concerning the recognition of this form of injustice among their peers. Precisely because this is a long-postponed issue in the agendas of trade union organizations, in spite of the fact that women organizations have achieved its inclusion in the platforms and the do's and don'ts of political correctness.

In this context, the Friedrich Ebert Foundation (FES) and the Trade Union Confederation of the Americas (TUCA) have agreed to make a contribution to the debate on the different dimensions of gender-based discrimination in remunerations.

TUCA Women's Committee (CMTA) has adopted the objective of furthering the fight for equity and equal opportunity. The Committee has placed special emphasis on moving towards parity in the representation of men and women in trade union structures, making gender issues an integral part of trade union agendas and fighting all forms of discrimination against women workers.

The aim of this publication is to contribute to trade union debate on this fundamental issue and to the efforts to design and develop trade union strategies and action plans.

Cooperating with trade union work is a priority for FES, given the essential role of these organizations in the promotion of democracy and social justice. In an increasingly interdependent world, international action and solidarity among trade union organizations is key for building global governance to guarantee socially fair and environmentally sustainable development, oriented to attaining equal access to rights for men and women alike.

*Simone Reperger*

Representative in Uruguay  
Director of FES Regional Trade Union projects  
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# Introduction

## TUCA and its perspective on gender pay gap

*Women have the right to live in a social system without power relations based on gender or any form of discrimination, the right to be valued and brought up free from stereotyped patterns of behaviour, social and cultural practices based on concepts of inferiority and subordination between sexes, and to contribute to the development and wellbeing of society.*

### Analysis and diagnosis of TUCA – ITUC

Evidence shows that in the last few years women wages have remained unchanged. Little progress has been attained in terms of efforts to reduce the gender pay gap.

The global crisis has affected women more negatively due to historical inequalities. It is apparent that the financial and economic crisis has drastically deepened inequality, and it is therefore urgent to address the various issues related to gender inequalities. This situation is particularly visible in terms of pay inequality and unemployment in the region, which have lead women to engage in jobs in the

informal economy, making their life conditions especially difficult and precarious.

In the 2<sup>nd</sup> TUCA Continental Congress, (Foz de Iguazú –April 2012), under the premise of “Sustainable Development, Democracy and Decent Work: Building a new society”, it was claimed that neoliberal economic policies have deepened the exclusion, exploitation and discrimination of women. Equality and the elimination of discrimination continue to be a challenge, in spite of the important advances in the social condition of women, as compared with previous generations. The Congress acknowledged that women currently have access to more, though lower quality, jobs, represent the majority of the population living in poverty, and are disproportionately represented

in jobs that do not comply with labour law provisions. There are large gaps in income, informality, distribution of non-remunerated tasks in the family, and social protection.

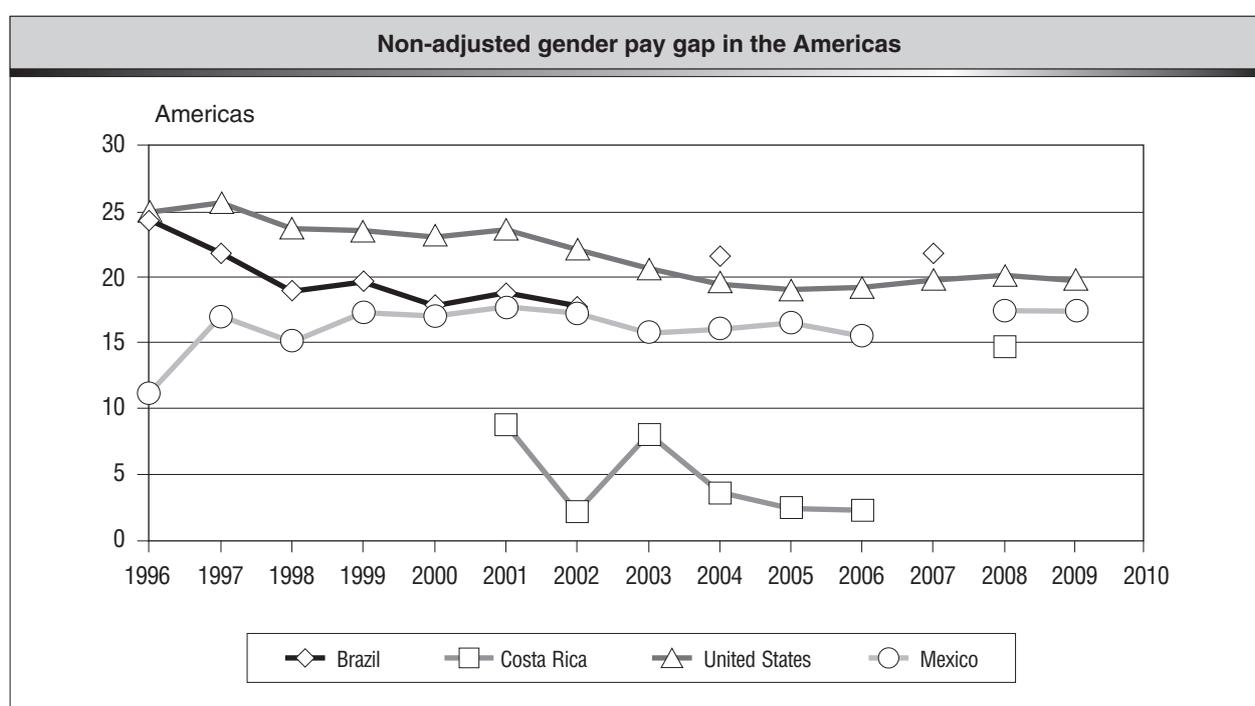
The latest IDB report (2012), states that in spite of all efforts made, Latin America continues to face deep inequality and weak indicators for the improvement of women working conditions. However, decision-making related to marriage, education and work have evolved and, as a result, the visibility of women in their homes, at school, in the work market, and in society has evolved too.

This situation poses great challenges in the labour markets for women in general, and women workers in particular, such as income

gaps, occupational segregation and the scarce participation in decision-making positions, among others.

In view of this, the trade union movement recognizes the particularly vulnerable position of women, who are often the target of double discrimination, both in terms of wages and social security benefits. Therefore, the trade union movement is fully committed to promoting the principle of equitable distribution of social security benefits, and reaffirms its support for the elimination of the gender pay gap.

The following chart shows the evolution of the gender pay gap in four countries of the Americas: Brazil, Costa Rica, Mexico and United States.



Sources: For USA, Drago and William (2010), for other countries, ITUC/IDS (2008) for data up to 2006, and the sources quoted in section 2.1 of this report for data after 2006 (Brazil also 2004).

The chart shows that between 1997 and 2009, the gender pay gap in Mexico remained practically unchanged, while it had a gradual, but steady, decline in the United States until 2005, followed by some small fluctuations. From the 1990s until 2004, Brazil had a decline in the gender-based pay gap, which later turned into a slight increase between 2004 and

2007. Costa Rica shows a relatively low gender pay gap, with an increase in 2008. (ITUC 2012)

To sum up, it may be asserted that the existence of a gender pay gap is a sign of the value assigned to the work of women, reveals gender discrimination and occupational segregation in the workplace, and that the

figures reflect the concentration of women in part-time jobs, as well as the unequal distribution of domestic responsibilities, given that women are responsible for most of the household tasks, being therefore more likely to interrupt their professional careers in order to care for their family and children. To conclude, it may further be asserted that the gender pay gap is a highly complex, multifaceted socio-economic phenomenon.

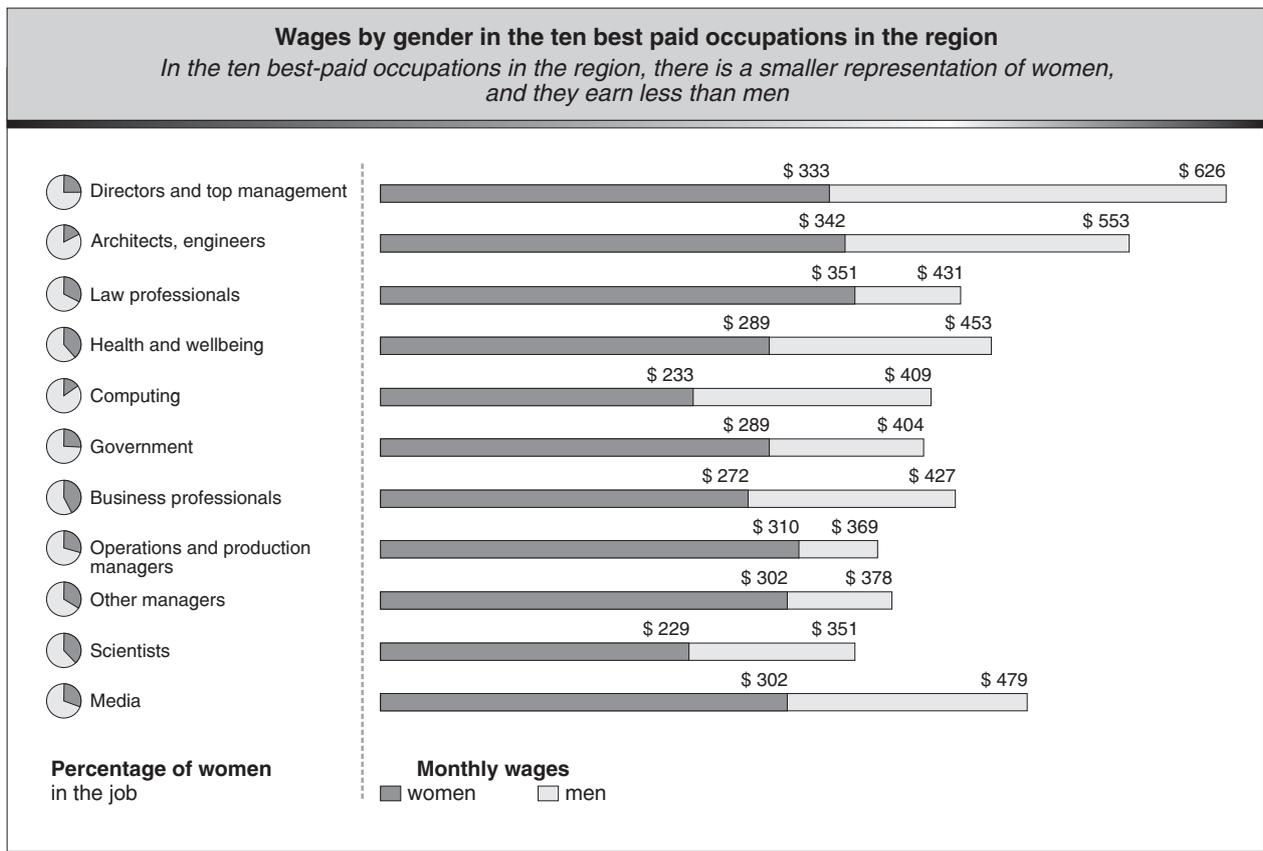
## Factors that contribute to gender pay discrimination

**Forms of pay discrimination:** *The first form* occurs when two individuals are paid differently for the same work, for example, a female and a male teacher with the same skills, experience and responsibilities. This form entails a violation of legislation on equal remuneration and of the labour right principle that provides for “*equal pay for equal work*”; however, this form of discrimination is widespread and often associated to women in traditional male occupations.

*The second*, when the jobs are different but although having comparable value, *have been described, classified, evaluated, and therefore remunerated differently*. Chicha (2008), states that the “*influence of prejudices and stereotypes on job evaluation methods reinforces and maintains the disparities that cause the gender pay gap, by using traditional job evaluation methods which cause important aspects of female jobs to be overlooked or undervalued*”.

There are additional factors that contribute to the gender pay gap (GPG) in most countries of the Americas, such as *age and educational level*. In relation to the latter, contrary to what could be assumed, *the pay gap widens as the educational level increases*, probably due to discrimination in the workplace, occupational segregation, or the fact that a larger proportion of women work part-time in comparison to men (often earning lower wages) or below their educational level, because they are forced to balance work and family responsibilities.

A wage discrimination indicator related to educational levels, but that is also useful to observe the phenomenon of segregation is shown in the following chart:



Source: IDB – 2012.

The participation of women in the world of work has increased in the last decades, but the pay gap between genders still persists. The process to close these gaps has been very slow, since the stereotypes and misperceptions of the roles of men and women have distorted interactions, not only in the workplace but also at home.

**Occupational segregation, as a factor of discrimination:** In spite of their massive incorporation to the work market, women still face major challenges to attain high responsibility positions, both in public and private companies, as explained before.

The main cause of the persistence of this form of vertical occupational segregation lies in the lack of enforcement, or the absence of policies to reconcile family and work life. This objective remains an aspiration for most women, who need to leave their jobs in order to care for their children, families, the sick, and often face double or even triple working days.

As mentioned before, the law provides for equal pay for work of equal value; however, predominantly female occupations, such as cleaning, the food industry and clerical work are poorly paid in comparison to other jobs of comparable value that are mostly dominated by men.

This trend is also reflected in the fact that the gender pay gap is larger in countries where the work market is highly segregated, and in male-dominated sectors such as the industrial sector, corporate services and the financial sector.

**The “Frozen in time: Gender pay gap unchanged for 10 years” report:** produced by the International Trade Union Confederation, ITUC in the year 2012 shows that, across the world, women earn in average 18% less than their male counterparts, and also shows that...

- ▶ In male-dominated sectors, such as construction, the gender pay gap is smaller, due to the low number of women working

in the sector, combined with a relatively higher level of education.

- ▶ Domestic workers show the lowest level of earnings and the largest gender pay gap.
- ▶ The largest ‘unexplained gender pay gaps’, attributed to discriminatory practices, are found in Chile, South Africa and Argentina.

As way of example, and for the purposes of comparison with the reality of the Americas in terms of gender pay gap (GPG), the European Commission (2007), defined the gender pay gap, GPG, as *the result of the interrelation of several factors*, such as:

- ▶ *Individual characteristics*: age, educational level, number of children, experience in the work market
- ▶ *Employment characteristics*: occupation, working hours, type of contract, employment conditions, career prospects and working conditions
- ▶ *Characteristics of the organization*: economic sector, size of the organization, recruiting practices, organization of work, etc.
- ▶ *Institutional characteristics*: education and training systems, collective bargaining on wages, labour relations, parental leave and availability of childcare facilities.
- ▶ *Social rules and traditions*: education, choice of employment, classification of occupations and evaluation of male and female-dominated occupations

The response—proposed by TUCA/ITUC and its women’s committee (CMTA) against discrimination and for gender equality in the Americas and the world

***Unionization has a positive effect on achieving equality in remuneration and diminishing the gender pay gap:*** Research

indicates that in most of the countries in the region, the gap in the remuneration of men and women is lower among unionized women and men workers than among non-unionized workers.

Moreover, evidence shows that the gender pay gap diminishes when there are collective agreements between the company and the trade union, and therefore, trade union representatives/delegates in the workplaces. It has been found that wages are higher in countries where collective bargaining covers at least 30% of male and female workers. The existence of a minimum wage reduces inequality in the lower half of wage participation. Given their over-representation in poorly paid jobs, women benefit more from collective bargaining and minimum wages.

**The “Decent Work, Decent Life for Women” world campaign:** This campaign, conducted by ITUC and TUCA – CMTA in the framework of the World Day for Decent Work, (WDDW) on October 7<sup>th</sup> each year, has the following objectives:

- ▶ Defending decent work for women and gender parity in labour policies and agreements.
- ▶ Implementing gender parity in trade union structures, policies and activities, and a significant increase in the number of women in trade unions and women in elected positions.

By means of this and other campaigns for equality, TUCA – CMTA, and its affiliated organizations play a fundamental role in informing, raising awareness and educating men and women workers on issues related to the gender pay gap.

There is certainly firm resistance of some governments, and of most employers, to apply gender equality, and precisely for this reason both ITUC at a world level, and TUCA and the CMTA in the Americas, insist in conducting and supporting these campaigns, to ensure that

the women employed in different industries and that perform hundreds of different jobs each day receive equal pay for equal jobs.

**Positions and actions of TUCA – CMTA and ITUC:** The Trade Union Confederation of the Americas (TUCA) and its Women’s Committee of the Americas (CMTA), and the International Trade Union Confederation (ITUC) are committed to promoting the following actions to further the fight to reduce gender gaps, in particular in terms of pay:

- ▶ Fighting to attain agreement on the definition of the gender pay gap. Governments (both at a national and international scale) have to reach consensus on a single, internationally recognized definition of the gender pay gap. Moreover, governments must give priority to gathering and sharing reliable national data on income in their political programs, in order to calculate and compare gender pay gaps at a national level.
- ▶ Establishing recruiting, selection and promotion practices that improve the access of women to better paid, male-dominated jobs
- ▶ Adopting measures to continue promoting unionization and collective bargaining, in particular in jobs where women predominate, for example, part-time jobs, temporary work and home-based work.
- ▶ Intensifying trade union actions in relation to wage equity at national, regional and international level, including collective bargaining, research and dissemination of information on the gender pay gap.
- ▶ In this respect, the fight for the implementation of the principle “**equal pay for equal value work**” continues to be a

task of fundamental political and strategic importance.

- ▶ Building capacity and developing campaigns to foster work-private life balance, and guarantee the right to a dignified life-sustaining wage, enough to cover basic needs.
- ▶ Fighting for full-time contracts, or at least an increase in working hours for women not voluntarily engaged in part-time jobs is another key demand of women workers.
- ▶ Strengthening trade union self-reform, and one of its key elements, achieving the highest possible unionization of female workers, their massive participation in actions to advocate for their rights, and their empowerment, that is, their access to trade union representation positions.

**Collective bargaining and the pay gap:**

Collective bargaining is a key instrument for disseminating and including equal employment opportunities and preventing or eliminating work discrimination between women and men workers. In this respect, collective bargaining should contemplate a wide range of specific issues related to gender-specific traits, such as child care facilities, breastfeeding rights, maternity leave, unhealthy work, and, in particular, fighting discrimination and eliminating, or if not possible at least reducing, the pay gap between men and women.

The organizations affiliated to TUCA are aware of the importance of collective bargaining as a form of promoting equal opportunity in the workplace. Therefore, strategies have been developed to guarantee a truly active participation of women and the incorporation of issues related to their rights, in particular pay gap, in collective bargaining.

# Gender discrimination in remunerations

*These notes summarize a set of reflections and action proposals related to gender discrimination in remunerations, with the purpose of facilitating the discussion of a trade union action plan geared at promoting gender equity in the labour world.*

*This report has been divided in four chapters. The first chapter describes the conceptual framework used to analyse the factors that explain gender discrimination in remunerations, and outlines the arguments that support the need to eliminate inequality in remunerations because of gender. The second chapter presents an analysis of gender pay gaps in Latin America. The third chapter contains some emblematic cases. The fourth and final chapter contains recommendations for the work of trade unions and other organizations of men and women workers, and stresses the need for these organizations to build alliances with various social sectors.*

## I. Conceptual framework

### 1. Definition

Discrimination in remuneration occurs when the determination of remuneration rates is not based on the nature of the work but on any of the personal attributes of a worker: sex, skin colour, race, and age. When remuneration is rates are determined on the grounds of sex, or when the criteria used for differentials in remuneration rates is not the nature of the

work done but the sex of the person doing it (ILO, 2003), this is called gender-based discrimination, which constitutes one of the “most rooted characteristics in the world markets around the world” (ILO, 2007, p. 22). This discrimination is based on the conception that many of the skills of women workers are personal attributes rather than work qualifications, which results in these attributes not being remunerated as work qualifications, even when they are important for good work performance.

Regardless of the reason, discrimination is **direct** when the difference in remuneration rates occurs in equal or similar types of work, and **indirect** in the case of different types of work of equal value. This distinction is important because it defines two types of possible actions to overcome discrimination in remunerations.

**Equality in remunerations** is aimed at overcoming direct discrimination, and means that men and women should receive equal pay for identical work (or comparable jobs). Equal pay is established in the legislation of many countries.

**Equity in remuneration** means that different jobs, requiring the same level of demand, skill, effort and responsibilities should be paid equally. That is, although the jobs may be different, the demands and the skills required are the same, and therefore, the jobs have the same value and should be paid equally: equal pay for work of equal value. This requires job evaluation to analyse the components of a job and compare them to those of other jobs. This is based on the recognition of the fact that women do not usually perform the same jobs as men, because they are faced with gender-based entry barriers that affect their work conditions (vertical and horizontal segregation). This is evidenced by the predominant presence of women in poorly remunerated, undervalued, part-time jobs, with fewer opportunities of receiving overtime, more obstacles for promotion and for accessing management positions in comparison with men.

Each one of these strategies also requires a different method for determining the types of work (equal or similar jobs, or jobs of equal value).

**Global methods** of job evaluation are ranking and classification methods. Jobs are compared and classified according to basic job requirements without carrying out a detailed analysis of their content. This general method for classifying and comparing jobs does not allow for the identification of the influence of stereotypes and prejudices which cause

predominantly female jobs to be undervalued (Valenzuela, 2009), as explained below.

**Analytical methods** of job evaluation take into consideration the content of the work, not the characteristics or skills of the workers who perform them. The factors required for the different jobs are identified and points are assigned to each factor, determining a numerical value for the job and quantifying the differences in value among different jobs. This is usually referred to as the point method. Some of the basic factors or relevant characteristics used to evaluate jobs are described below:

- ▶ **Qualifications:** Knowledge and skills required to perform a job. What is important is that the content of the qualifications corresponds to the requirements of the job being evaluated
  - ▶ Evaluating the competencies and skills required for each job or occupation.
  - ▶ Ways of acquiring qualifications: academic or vocational training certified by a diploma, paid work experience in the labour market, informal training, volunteer work
- ▶ **Physical and mental effort**
- ▶ **Responsibility over technical, financial and human resources**
- ▶ **Working conditions:** physical (noise, dust, temperature) and psychological (stress, isolation, simultaneous demands, aggressiveness of customers, among others).
- ▶ **Work atmosphere**

These factors must be analysed independently from the economic sector of the jobs, and each factor must be rated according to its level of importance within each company.

The analysis of the jobs must consider both the fixed and variable components of pay and complementary benefits (for example,

insurance in excess of legal requirements, use of vehicles, etc.).

## 2. *Factors that explain gender-based discrimination*

Several authors have examined the factors that may explain gender-based discrimination in remunerations.

Chicha (2008), indicates two sets of factors: a) the characteristics of individuals and the companies in which they work, and b) gender-based factors, when there is a residual pay gap between the mean wage of men and women (calculated between 5 and 15%), which cannot be explained by the above mentioned factors. The first set of factors includes the level of education and field of study, work experience in the labour market and seniority in the organization or in the job held, number of working hours, the size of the organization and sector of activity. The second set of factors takes into consideration stereotypes and prejudices with regard to women's work; traditional job evaluation methods designed on the basis of the requirements of male-dominant jobs; weaker bargaining power on the part of female workers, who are less often unionized and hold a disproportionate number of precarious jobs; the perceived higher costs of employing a woman due to maternity protection benefits, and the alleged higher absenteeism of women; lower propensity to work overtime, lower commitment to, and interest in work, more restricted mobility relative to men.

Jill Rubery (2002, quoted in ILO, 2003) proposes a series of factors that determine inequalities in remuneration for different social groups, races, classes, rural migrants, young people, the elderly, and women. The determinants for women are described as follows:

- ▶ Factor. Secondary earners
  - ▶ Nuclear family support.
- ▶ Factor. Weak representation of female workers

- ▶ Representation dominated by men; difficulties to organize women sectors

- ▶ Factor. Job segregation
  - ▶ Crowding into feminized jobs
- ▶ Factor. Social valuation of skills
  - ▶ Care work accorded low value

The various actors in the market, both employers and trade unions, tend to give pay equity less priority than other issues; such as pay levels and employment (ILO, 2003).

One of the most widely extended arguments of organizations is the additional non-wage cost of employing a woman worker and having to cover maternity protection and childcare expenses, which would result in women being paid less in order to compensate such costs. This argument has been challenged by evidence that a large portion of the monetary costs tend to be borne by the State, through the funding of maternity leave wages with taxes, or with employer social security contributions based on wages, irrespective of the sex of the worker. But the perception that women are less productive, or generate higher costs due to their (actual or potential) reproductive role, continues to exist in societies where the distribution of responsibilities, both in terms of adequate public services (quantity, quality, time schedules, spatial distribution) and of responsibility for domestic tasks, evolves very slowly (Abramo and Todaro, 2002; Todaro, 2010). On the other hand, some employers have expressed the opinion that redressing gender wage inequalities is a costly exercise entailing only marginal benefits (ILO, 2003). Most trade unions also tend to perceive pay equity as concerning women workers only and gender distribution of reproductive tasks irrelevant, and not as a matter of strategic interest for all male and female workers, as low wages, unemployment and poverty.

One example of the resistance met by actions geared at promoting equal pay is the debate in Chile at the time of the adoption of the Equal Pay Law (Ley de Igualdad de Remuneraciones)

in 2009. Some analysts -economists, labour advisors- as well as stakeholders of the labour world, in spite of recognizing the importance of eradicating discriminatory practices, were of the opinion that the law would affect women employment negatively. Among others, the arguments raised were the following.

- ▶ Difficulty to define jobs. The obligation of organizations, established by the law, to have full job descriptions and include them in their internal regulations would create difficulties because “any time an organization needs to make changes in its structure, the approval of several different parties will be required, going back to a situation typical of the 60s”.
- ▶ Difficulties to assess pay differentials based on skills.
- ▶ The law will make remuneration management more complex.
- ▶ Judicialization of labour relations. Increase in the discrimination complaints filed by women. Added to this, around the same time, changes were introduced in labour courts to facilitate court procedures.
- ▶ Companies could decide to reduce the number of women employed.

### 3. *Arguments to eliminate gender-based pay inequalities*

Different arguments have been raised to justify the importance of eliminating pay inequalities.

From the point of view of social justice, it has been argued that any measure aimed at increasing the visibility of, reducing, and eliminating this form of discrimination contributes to gender equity, promotes social equity, social inclusion and decent work, and reduces poverty. It is also an essential part of respecting the human rights of women, since undervaluing women’s work only because of their sex is a violation of individual dignity.

From the point of view of economic development, promoting equal treatment in terms of income means promoting the productive potential of men and women, thus contributing to a better utilization of human resources: the recognition of the undervalued competencies of women workers, and the increase in the remuneration of undervalued jobs may increase profitability by enhancing productivity and reducing employee turnover.

From the point of view of the organization, adopting equal pay policies enhances the perception of equality within the organization and improves labour relations, which may result in higher satisfaction and commitment of both female and male workers to the organization, a reduction in the frequency, and faster resolution of conflicts within the organization. These policies can also have effects on the reputation and attractiveness of the organization, increasing the possibilities of recruiting qualified personnel. More specifically, in terms of human resources management, these practices may enhance the effectiveness of recruitment and continuous training processes, as well as employee retention, while providing greater consistency to remuneration policies and the harmonization of the pay system on the basis of job value (Chicha, 2008).

Closely tied to the arguments described above, equal pay has a series of indirect, medium and long-term benefits. For example, equal pay legislation has contributed to a “better knowledge of job requirements, and therefore better-targeted firm-level training, and greater efficiency in remuneration, as well as in recruitment and selection practices” (ILO, 2007, p. 86). In terms of human resources management, this legislation leads to a better knowledge of the job requirements, and therefore to a more accurate determination of the level of training required in the organization, as well as more effective practices in remuneration, employee recruitment and selection. And, as mentioned above, it has positive effects both within the organization (improved labour relations, conflict resolution)

and on the relations of the organization with its environment (company reputation) (Chicha, 2006).

However, these arguments are frequently challenged by heterogeneous production models and relations. While in some areas competitiveness is based on increased productivity attained through different means, such as improving the quality of labour relations and working conditions, in other areas the sources of competitiveness are precisely inequalities and low salaries.

The stereotypes and material limitations faced by women in remunerated work -such as the unequal distribution of housework and childcare tasks- influence their predominant presence in low quality, poorly paid jobs, and lead to fewer career development opportunities, due both to their forced availability for this type of work (offer) and to a preference for hiring women under unequal conditions in sectors where competitive advantage is derived from cost reduction, rather than enhanced productivity. Examples of this are temporary and part-time jobs, resulting in precarious work contracts and low wages.

These aspects and peculiarities should be taken into consideration at the time of designing a trade union action strategy for the elimination of gender pay discrimination, in order to detect the most relevant factors for each case.

## II. Gender pay gap in Latin America

Several studies conducted by international organizations and institutions like ILO, IDB, ECLAC, among others, point out that a pay gap between men and women still exists in Latin America and the Caribbean, in spite of having diminished in the last few years.

Various researchers have sought to identify the causes or sources that explain the existence of

pay gaps between men and women (or gender gaps) in the region on the basis of differences in individual characteristics, differentiated generation of human capital, or existing regulations; the number of children that women have, job segregation, or differences in income generation opportunities in urban and rural areas, among others (Ñopo, 2012).

According to data of ECLAC's 2011 Annual Report: Latin American and Caribbean<sup>1</sup>, for 2007-2010, the mean wage of urban, wage-earning women, aged 20 to 49, that work 35 weekly hours or more, is between 72% and 97% of that of their male peers. The larger differences are found in Peru (72%), Brazil (76.6%), Bolivia (78.1%), and Mexico (78.4%), followed by Chile and Uruguay, with 81% each. On the other hand, pay differences are smaller in Venezuela, where women earn almost the same as men (97.4%), El Salvador (95%), followed by Costa Rica (92.65%), Argentina and Ecuador (90%).

According to this source, and taking into account the number of years of education completed, gender pay gaps present great heterogeneity among all countries in the region. In some of the countries, differences in educational levels do not affect the pay gap between men and women, in others the pay gap diminishes, or conversely, increases as education levels increase. The former is the case of, El Salvador, Honduras, Mexico and Paraguay. The latter case, that is, the countries where the pay gap diminishes as the years of education increase, are Argentina, Costa Rica, Panama, Peru, Dominican Republic and Uruguay. In this last case, the countries where tertiary levels of education increase the gender pay gap in different proportions are Brazil, Chile, Colombia, Guatemala, Nicaragua and Venezuela. The high heterogeneity observed in the different countries both in total gap and the

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<sup>1</sup> The 18 countries studied are: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela

gap based on educational levels, suggests the need for an in-depth analysis of the different contextual circumstances that influence such differences.

In an in-depth study named *New Century, Old Disparities* on gender-based pay gaps in Latin America and the Caribbean, based on surveys of households from 18 countries in the region<sup>2</sup>, Hugo Ñopo (2012) estimates the size of gaps and the portion of such gaps that may not be explained by individual or work characteristics (residual gap). These gaps vary across the Region in general, and among the various countries studied. The characteristics or variables used to control the gaps are grouped in three sets: 1) Age and education; 2) demographic variables: number of minors in the home, another wage-earning individual present in the home, urban area, 3) demographic and work variables: part-time jobs, formality, occupation, economic sector, type of employment and size of the company.

According to Ñopo, in general men earn 10 per cent more than women in the Region<sup>3</sup>, and that there is high heterogeneity among countries<sup>4</sup>. After controlling for the set of observable characteristics, the author stresses that a great proportion of this gap remains unexplained, which may be attributed to unobservable differences, probably including gender discrimination. For example, when comparing the labour situations of men and women of the same age and the same educational level, the portion of the gap that may not be explained by observable characteristics becomes wider than the original gap. This means that, if men and women of the same age and education are distributed equally in the labour market,

the gender pay gap will increase from 10 to 17 per cent of the average wage of women.

After controlling for the set of observable characteristics, unexplained gender pay gaps reach 20%.<sup>5</sup>

By exploring these pay gaps between men and women by country, Ñopo found a great heterogeneity between countries, both in terms of the original gap and after controlling for the abovementioned sets of observable variables.

In 7 of the 18 countries studied, the gender pay gap is negative, reflecting higher average remunerations for women in comparison to those of men. However, after controlling for age and education, the unexplained portion of the gap is statistically equal to zero in Bolivia and Guatemala, and of 29.7% in Brazil, while in Peru the gap remains almost unchanged.

To summarize, according to the study by Ñopo, men earn more than women in every age group, in every educational level, in all types of jobs (self-employment, employers and employees), both in large or small-sized companies. Only in rural areas women earn, as an average, the same as their men peers.

It should be noted that, as an average, one-fifth of the gender pay gap cannot be explained by differences in observable characteristics of individuals or of the job. This suggests that other factors, including discrimination and unobservable characteristics— such as effort and commitment to work—, influence the persistence of gender pay gaps in Latin America and the Caribbean.

The gender pay gap that cannot be explained by controlled variables widens with age, which

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2 Same countries as above.

3 The analysis focuses on remuneration of wage-earning, 18-65 year-old individuals from 18 countries, representing most of the working population of Latin America and the Caribbean. Remuneration is measured by hour worked in the main job (IDB 2012).

4 Pay gap: difference in the average remuneration of men and women as a percentage of the average remuneration of women. Data circa 2007 (Ñopo, 2012)

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5 Due to differences in the methods used for data compilation and in the population universe used by the various sources (total employed population, or urban population, wage-earning population, of a certain age, etc.), caution should be used when interpreting pay gap information from the different countries.

could be explained, according to the study, by a “cohort effect”, that is, pay gaps would tend, as an average, to decrease in younger cohorts.

Another possible explanation may be the effect of some of the unobservable characteristics, such as work experience, according to which gender differences correlate to age. Differences in accumulated experience may increase as women grow older and have children –data show that the gender pay gap is slightly higher among female workers with children. According to Ñopo, a possible reason that may explain differences in work experience is that women have more probabilities of being forced to go out of the labour market after they have children.

The gender pay gap is also wider between self-employed women and men, as compared to wage-earning employees. Nevertheless, even after controlling for differences related to individual and work characteristics, the significant pay gap between men and women in the region remains unexplained.

### III. Emblematic cases

There is little systematic information available on emblematic cases, both negative and positive, in Latin America. It is therefore necessary to conduct an intensive and extensive research of cases in the region that may serve as examples for organizations from various sectors.

Literature on successful international cases highlights the importance of collective action and, in particular trade union action, in the support of discrimination complaints. This not only enables to gather information that would be difficult to access for individual complainants, prepare more solid arguments and exert pressure, but also permits to protect women workers from immediate dismissal after filing a complaint.

One emblematic story that has been widely publicized is the case of the pilots of the

Spanish airline Iberia. One peculiarity of this case is that, although entailing a clear case of gender discrimination, it may easily go unnoticed, and appear as a case of “objective” rather than discriminatory differences.

**The case of Iberia:** Pilots (men and women) receive an extra payment for hours flown. Every two years, if the number of hours flown is greater than 75% of fleet average, pilots are moved up one step in the remuneration scale.

When this rule is analysed in the light of gender differences, it becomes apparent that women cannot pilot a plane during pregnancy, in addition to the maternity leave period. This represents a 13-month delay, during which they cannot meet the salary increase requirement. Calculations show that a 40-year old woman, who has had two pregnancies, accumulates a delay equivalent to two pay levels in comparison with male colleagues with the same years of work. In-depth analysis of this salary increase method changes its qualification from neutral to based on “women’s own nature”.

The question becomes whether the criterion chosen to grant salary increases is related to job skills, that is, whether this requirement is related in any way to a pilot’s work performance. The arguments used in the complaint posed that it is not, and that this remuneration system punishes maternity. For this reason, trade union organizations propose to include equal pay in collective bargaining to prevent the “naturalization” or disregard of this kind of discriminatory situations, whether they are intentionally covered up or not. These actions require conducting studies that are often beyond the possibilities of the trade unions.

**The case of Wal-Mart,** as it came to be called after the lawsuit against the largest retail chain in the United States, is well known due to the size of the collective lawsuit involved. Over one million women may have been involved. Women workers (who account for 70% of the employees of the chain) received lower pay for the same type of work, fewer and less frequent

promotions than men. The U.S. National Organization for Women (NOW) reported this case as discrimination against women. This is an example of the importance of forming alliances with national women associations to join the efforts of worker's organizations. The gender discrimination case was won by the complainants, although the company appealed the decision before the Supreme Court of Justice.

Another case was the **case of the Education International**, an organization that gathers over thirty million teachers and education workers from 173 countries and territories. This association organized a "Global Campaign to Promote Pay Equity" with the slogan "Equal Pay NOW!" The campaign was based on the premise that women receiving a lower pay than men for work of comparable value is a violation of fundamental work justice principles.

Case studies should include countries and work sectors representing a variety of labour legislations, work and gender equity conditions, types of organizations, levels of trade union activity, and participation of women in trade unions and politics.

Another interesting case was the application of the **law of equal pay between men and women in Chile (Law N° 20.348)**. Almost one year after its adoption (January 2010), a study of the Work Directorate<sup>6</sup> analysed the operation of this law in two areas: the actions implemented by the Work Directorate, and the knowledge, attitudes and actions of trade union organizations, employers and managers with respect to the new law (Henríquez and Riquelme, 2011)<sup>7</sup>.

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6 A branch of the Ministry of Work and Social Security responsible for the surveillance of this law compliance.

7 This was an exploratory descriptive study, and used different data gathering techniques: review of documentation of the Work Directorate, individual interviews and focus groups with trade union leaders (13) and executives (7) from the whole of the private sector; interviews with key informants both from the Work Directorate and from other sectors; press and bibliography review.

Before presenting the conclusions of the study, it should be noted that this law establishes the principle of equal pay between men and women for the same job<sup>8</sup>. All employers, regardless of the number of women and men workers in the company, are required to comply with this principle.<sup>9</sup> The law also establishes the procedure to be followed by a worker in case of an unequal pay complaint: complaint in writing sent by the worker to the organization; response in writing of the employer (within 30 days); if not satisfied with the response, the worker may elevate the complaint to the Work Inspectorate (Inspección del Trabajo, IT) that attempts to solve the dispute through mediation; if not successful, the worker may file a complaint with the Courts, or may file the complaint directly appealing to the Inspectorate first.

The results of the study show that almost one year after the adoption of the law (late 2010), there had been limited promotion, and almost no training in relation to the new law. Knowledge of trade union leaders and employers about the law was very limited and uneven; only some trade union leaders had started actions in this respect, and there were many doubts about the application of the law.

The managers and employers surveyed had little knowledge about pay gaps between men and women, and the individuals responsible for the remuneration systems of the organizations, in general stated that salaries were established on the basis of categories regardless of the sex of the employee<sup>10</sup>.

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8 Although the bill provided for the enforcement of the principle of equal pay for work of equal value, after its discussion in Parliament, Congress resolved to use the concept of the "same work".

9 Companies with more than 200 workers must include descriptions of the jobs and their essential characteristics in their internal regulations; companies required by law to have internal health and safety regulations (organizations with 10 workers or more), must include complaint procedure in their internal regulations.

10 To supplement this information, the authors quote a survey conducted by Ernst & Young in April 2010 (months after the law was adopted) showing that 53% of the companies surveyed had not yet established a

Trade union representatives in general denied the existence of gender pay discrimination in their workplaces, or in relation to the workers they represented, and had a tendency to place discrimination at upper hierarchical levels. It was described as a “distant and blurry issue (...) that does not match the reality of the workers we represent” (p. 30). Additionally, the study recorded various actions performed by trade union representatives, among them:

- a) Conversations between the trade union and the organization or organizing discussion tables to debate issues, the inclusion of equal pay in collective instruments.
- b) Support to trade union members to file complaints with the Work Inspectorate. All trade union representatives agreed on the importance of trade union participation in complaints concerning possible discrimination filed by a woman worker against her employer, although the law establishes that the worker has to file the claim on an individual basis. The reason argued was that any worker filing such a claim without trade union support may “be considered as conflictive, which may put their jobs in danger” (Trade union representative from the commercial sector, p.21). In fact, most complaints with the Work Directorate (consultations, claims, objections to job descriptions) had been promoted by trade unions, in representation of one or several workers, or to claim about more general situations.
- c) Challenging the modifications to the organization internal regulations to incorporate grieving procedures, which in some cases has given rise to dialogues on job descriptions and roles within the organization.
- d) Participating in the description and documentation of jobs, the methods

used for defining them, and their level of specificity.

- e) Organising training activities and seminars with members to learn about the law and discuss courses of action.
- f) Incorporating the issue of equal pay to collective bargaining. Although this happened in only two cases, we feel they are worth describing. In one of the cases, a trade union in the area of communications, whose collective agreement included a clause that required the formation of a discussion table between the organization and the trade union with “the purpose of implementing the job and role descriptions included in the internal health and safety regulations (...)” (p. 22). The other case is a collective agreement in the sector of large retailers that includes an “equal pay” clause that sets forth the company obligations of information and of establishing procedures to guarantee that there are no arbitrary discriminations in remuneration, and of ensuring that women and men workers can work in any of the company’s departments.

Lastly, the Work Directorate had received (as at October 2010) slightly over ten complaints, claims and consultations in connection to the new law. This was an indication of the low degree of compliance with the organization obligations set forth in the law (organizations that did not have grieving procedures or job descriptions); most of the workers who had filed complaints were self-employed at the time of filing the complaint, belonged to various economic sectors, had low to medium income, and in most of the cases had filed the complaints with the help of the trade union. The Work Directorate acted as mediator between parties in only one case where agreement was reached on the means to ensure future equal payment for the worker affected, as well as an indemnification for the damages suffered (See Table 1).

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complaint procedure for equal pay violations in their internal regulations.

In relation to the possible difficulties for the application of the law, the study highlighted

the fact that the law requires, as a first step in the procedure, the submission of a written complaint by the worker to the employer, and

questioned whether a woman worker would be able to use this right in a situation of such inequality.

CHART 1.

*Application of the Equal Remuneration Law:  
a success story (Chile, Law N° 20.348*

A woman worker from a large commercial organization filed a written, grounded, complaint for pay inequity that affected other three women co-workers, who also filed complaints. The four workers were credit analysts that did the same work as their male co-workers, who received a higher pay.

As established in the law, the worker sent a letter to the company stating her complaint—at the same time as the other workers-, but had no response. In view of this, the worker filed a complaint with the Inspectorate of Work (a branch of the Labour Board). The authorities evaluated the admissibility of the complaint and conducted an inspection.

Later, mediation took place between the parties, which ended in an agreement, by which a clause was added to the employment agreement establishing remuneration comparable to that of the men workers doing the same work, and the obligation of the company to pay the difference for the days worked in prior months.

The organization rejected the claims of the other three workers without giving any reason, but later increased the pay of all men and women analysts (two of them, because the third had retired) (Henríquez & Riquelme, 2011).

More recently, almost three years after the law came into effect, the evaluation is still quite negative. Knowledge about the law is still limited among women and men workers, employers and even labour law experts, and very few complaints have been filed. Experts agree that one of the obstacles for women workers filing complaints in situations of pay discrimination, as it had already been pointed out in the study of Henríquez and Riquelme (2011), is the fact that the requirement that, in the first instance, the worker should file the complaint to her employer by herself. Experts also point out the lack of interest of trade unions and the absence of this issue from collective bargaining processes. They also note the persistence of the idea that women's income is secondary or supplementary, strong

horizontal and vertical segregation, and the penalization or punishment of women workers.

#### IV. Recommendations for the work with worker's organizations and trade unions

An important obstacle for pay equality and equity is the low degree of awareness and understanding of gender discrimination in remunerations, both at the general level and among men and women workers in particular. This is not due to the absence of this issue from public debate—in fact this issue is often brought up in the discussions of discrimination against women— but rather due to little

understanding of the negative consequences of this discrimination, and even of the lack of knowledge on how it operates and reproduces, as well as the concrete forms of approaching it in the workplace.

Experiences of international trade union organizations in this respect show the positive influence that trade unions may have on the collective bargaining processes in relation to pay and the operation of the remuneration system (Gender Pay Equity. PSI and EI tool for trade union action).

In view of the potential contribution of worker's organizations and trade unions to the identification and resolution of gender discrimination, we outline below two groups of recommendations.

Firstly, trade unions and other worker's organizations (associations, federations, committees, etc.) may make an important contribution by exposing discrimination in remunerations in the workplace. Until now, gender issues, and action strategies on these issues, have had little space in the agendas of women and men workers. This stresses the need to work on the dissemination, information and training of workers on the issue of discrimination in remunerations, in order to identify and understand a problem that affects everybody, document cases of discrimination (know how it manifests in the different workplaces), and incorporate the issue in their agendas and collective bargaining processes. This may help to provide visibility and strengthen trade union action by tackling issues that affect an increasing number of women workers. In this respect, campaigns for pay equity may be an incentive for women to participate, and join the trade unions.

Secondly, it is important that the actions of worker's organizations and trade unions in connection to pay discrimination include alliances with other social sectors concerned, such as employers, state employees responsible for enforcing compliance with

the applicable legislation (in the countries where such legislation exists), civil society organizations dedicated to related issues, etc. Forming alliances with different social actors permits sharing and benefitting from different experiences and expertise that may contribute to enhance any information, dissemination and training actions undertaken. But at the same time, the need to build alliances seems to be even more urgent considering the complexity of the issue, and the weaknesses of the trade union movement in some countries of Latin America –trade union fragmentation and atomization, poor representativeness, strong limitations of the right of strike and collective bargaining (Chile is an example of weakening of trade union action, which started in the sixties).

Some proposals for each one of the areas outlined are detailed below.

### *1. Pay discrimination, a trade union issue*

Following some organizations with significant experience in this issue (Public Services International (PSI), Education International (EI)), and the many years of work experience of the Centre for Womens Studies (Santiago, Chile) with trade unions and worker's organizations, we recommend the implementation of the following actions.

- ▶ Generating information and awareness-raising instances with men and women workers (unionized and not unionized) to help them understand this phenomenon and its implications in terms of social equity, human rights, social and economic development, undervaluation of the capacities of the female workforce and the eradication of poverty.
- ▶ Training instances geared at building the capacity of men and women workers, and in particular in worker organizations (collective bargaining teams), to implement action strategies aimed at identifying and reducing discrimination in remunerations.

Among others, the following actions may be noted.

- ▶ Analysing salaries in the workplace. Gathering data on the operation of the remuneration scheme of a given workplace and making it known to all men and women workers. This may help to make these systems transparent and to identify the existence of pay discrimination because of gender or for other reasons, such as men and women part-time workers, subcontracted, migrant workers, etc.
- ▶ Examining or drafting job records. In some countries like Chile, the equal pay law (January 2010) requires organizations to keep a record of jobs (a job description on the basis of essential characteristics; for companies with over 200 workers) to permit the verification of breaches of the law, as well as an internal procedure to manage remuneration inequality complaints (companies with 10 employees or more). The participation of trade unions in these instances may help strengthen their role in the protection of pay equality.
- ▶ Job evaluation. Aimed at evaluating the content of jobs, and consequently, the worth of the various jobs. These evaluations must include: compilation of information, analysis of job descriptions and content, evaluation of jobs on the basis of factors such as skills, effort, responsibility and work conditions) (PSI, s/f). Given the complexity of these evaluations, this activity may be considered at a more advanced stage of the trade union work on the subject.
- ▶ Raise the awareness of the collective bargaining teams on the importance of understanding remuneration equality/equity as an integral part of the quality of working conditions, and as a guiding principle for their actions.

- ▶ Building trade union leaders' and advisors' capacities to act in the framework of the actions allowed by the legal frameworks of the various countries (knowledge of the legislation, limits and scope of the legal framework, access to legal advice on the subject, etc.).
- ▶ Incorporating individuals with expertise in the issue of pay discrimination to the trade union and worker organizations' technical teams to provide support in collective bargaining and in incorporating gender pay discrimination to the work of trade unions and organizations.

It should be noted that trade union organizations adopt very diverse forms in Latin America, which impacts action strategies. On the one hand, there are differences in the levels of collective bargaining (at organization or sectorial level, for example), or trade unions of temporary workers. The number of workers who have limited access to collective bargaining is a decisive factor that should be taken into consideration. Likewise, the strength and unity of trade union centrals and intermediate-level organizations also has an effect on the design and capacity to implement strategies, along with the level of awareness and willingness to undertake actions in relation to gender issues.

## *2. Building alliances*

In an area of action where there so many different factors intervene, it becomes essential to join efforts and build alliances with stakeholders from different social sectors that may have common interests. For this purpose, we propose the creation of groups or discussion tables including worker's representatives, civil society organizations (in particular, women and human rights organizations), men and women state employees involved in the implementation and control of the legal frameworks that guarantee equality in remunerations, educational centres related to labour and gender issues, and representatives of international organizations

in this area (ILO, PSI, EI, International Trade Union Confederation (ITUC), among others.).

These groups or discussion tables may consider implementing the following activities:

- ▶ Discussion and reflection on gender discrimination in remunerations, and definition of strategies (at trade union level, communication, political level, etc.).
- ▶ Contributing human and material resources to the implementation of information and training activities targeting men and women workers: definition of content, compilation/creation of educational materials, etc.
- ▶ Providing support to the work of workers' organizations and trade unions in relation to the analysis of remunerations, job evaluation, and the processes of collective

bargaining including remuneration equality/equity.

- ▶ Organizing information and awareness-raising instances on the consequences of gender pay discrimination, addressed to state employees responsible for the implementation and surveillance of existing legislation on this subject, in particular in the case of countries where this legislation is very recent or where there are difficulties or flaws in its application.
- ▶ Organizing and implementing a strategy for communication to the general public, which may contribute to the understanding of the issue of discrimination in remuneration between men and women as an issue that affects human rights, the social and economic development of a country and impairs the possibilities of reducing poverty.

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## Abbreviations

- CEM** Centre for Womens Studies
- TUCA** Trade Union Confederation of the Americas
- FES** Friedrich Ebert Foundation
- CMTA** TUCA Women's Committee
- IDB** Inter American Development bank
- ITUC** International Trade Union Confederation
- GPG** Gender Pay Gap
- ILO** International Labour Organization
- PSI** Public Services International
- EI** Education International



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**FES**  **SINDICAL**

