



International Labour Organization

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“SITUATION TESTING” ASSESSING DISCRIMINATION IN ACCESS TO EMPLOYMENT (BASED ON ILO METHODOLOGY)

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**Workshop: “Comparability of Data on Discrimination and Integration”
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CONTEXT

Employment is a fundamental means of participation in society, and discrimination implies a waste of valuable human resources. Discrimination in access to employment not only endangers any integration, but also leads to social tensions and economic loss for individual enterprises and national economies as a whole. This year is the 50th anniversary of the ILO Convention 111 on discrimination in employment and occupation, the fundamental instrument ratified by all countries in Europe.

Some years ago, conventional wisdom explained differential outcomes in employment between ‘nationals’ and minorities --notably those of immigrant origin-- as the consequence of differences in qualifications, educational attainment, experience, and language abilities. The existence --let alone prevalence-- of discriminatory behaviour by society and employers was often dismissed rather than acknowledged.

Research tended to identify differences in qualifications, education and language as corresponding to differential outcomes observed. Existing data and indicators, after all, could more easily measure differences in outcomes, but not necessary the factors producing the differences.

A logical policy implication of conventional wisdom and existing research was to focus on reducing disadvantages and inequalities in education, skills, language abilities and so on, as if this would solve the problems. Unfortunately, this answer continues to predominate in current migration policy debates.

However, opinion surveys and the real experience of minority and immigrant groups clearly indicated that discrimination --discriminatory behaviour-- was also playing a significant role in preventing equality of outcomes. This especially affected persons similarly educated, qualified and proficient. If this were the case, government policy and stakeholder action would need to address these factors. But how to demonstrate that discrimination, not just differences, was an important factor? And if discrimination is an important factor, how to encourage necessary changes in law, policy and practice by government and other stakeholders?

THE APPROACH

Facing this crucial challenge, the ILO developed a unique experimentation methodology to measure discriminatory behaviour in actual practice, in order to help member governments and social partners recognize discrimination in the labour market. Called “situation testing”, sometimes referred to as “practice testing,” this approach has proven to be an essential resource to demonstrate the nature and extent of discriminatory behaviour actually taking place in the labour market.

Before outlining the methodology itself, let me stress the advantages of ‘situation testing.’ First and foremost, it measures behaviour. *Practice Tests* are carried out through pairs of persons posing as job-seekers whose characteristics are matched except for nationality/national origin. Practice tests are close to reality; they focus on actual behaviour --rather than subjective statements-- of employers seeking to fill vacancies. Test outcomes cannot be influenced by socially desirable answers, as the employers tested are not aware of the experiment. Secondly, the methodology requires a statistically significant number of tests for each variable in each location to ensure valid conclusions. And thirdly, testing under the auspices of a competent international agency provides for independent neutrality and credibility in sometimes politically charged national contexts.

The results of this research are thus critical to motivate action and to shape effective remedies. The ILO situation testing studies have usually been mandated and financed by a national government agency, with a clear intent to use the results to improve national legislation, administrative measures and stakeholder practices.

Since 1996, the ILO has coordinated and supervised situation testing in Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden and the United States. Similar *testing* following the ILO methodology was conducted independently in Denmark and Switzerland. Enquiries or indications of interest have been received from Austria, Finland, Norway, Portugal and the UK. Officials of the Fundamental Rights Agency have discussed with ILO the merits of this methodology as a potential tool for measuring discrimination and promoting equality of treatment more widely across the EU.

METHODOLOGY

So how is it done? Pairs of *candidates*, comprising one *national* and one *immigrant* or *immigrant origin* applicant whose characteristics match except for their ethnic/national background, present themselves to prospective employers in response to job openings. In this way, differential treatment between migrant/immigrant origin candidates and those of national background can be identified and statistically measured when it occurs.

Pairs of candidate testers are matched to present identical skills levels, educational attainment and employment experience. The tester ‘candidates’ are often university students or young professional actors, carefully selected to meet the testing behavioural and background protocols. The testers are provided training for their roles and coached to present similar behaviour and attitudes to eliminate all possible variables influencing employer consideration other than their names and physical appearance marking ethnic difference. Their testing activity is constantly guided and monitored by qualified project supervisors. All testers and project supervisors are supported throughout this process. Confidentiality is rigorously maintained of identities of the employers contacted and the tester candidates.

The ILO testing methodology requires that a minimum of 175 “valid and usable” tests of job offers are conducted in each labour market area and for each variable in order to arrive at statistically valid conclusions with respect to the occurrence of discrimination. This may mean that tests may be initiated with as many as 300 or more job vacancy announcements in a given labour market area.

The testing generally focuses on low and medium skilled jobs, in sectors and activities assumed or shown to be sought after by candidates of both national and immigrant backgrounds. Representative samples of vacancies in both industrial and service sectors are generally selected. The vacancies are identified from job offers at offices of labour exchanges, newspaper advertisements, and other forms of publicly announced demands for workers. Application procedures and requirements for high skilled jobs generally demand presentation of personalized legal educational credentials that the current methodology cannot provide.

Tests generally compare legally resident migrants or “second generation” citizens of immigrant origin, who have experience in the host country labour market and who would be applying to the same job openings as national origin/ancestry workers. The nationality and gender profiles to be tested are determined in consultation with the research sponsor –usually a government agency—and the implementing national research partner.

Tests are usually carried out in three or more important urban areas in each country, in order to obtain data on different labour market areas in a country with substantial populations of immigrant or immigrant origin workers.

The testing procedure follows the hiring process through the three main steps: voice inquiry or submission of CV; presentation of written application; and the job interview and selection. Testing “pairs” are carefully set up and trained to match their skills levels, educational attainment and employment experience levels. Coaching is provided to ensure that personal styles, such as level of assertiveness, are as identical as possible to eliminate all variables but that of patronyme signifying ethnic origin.

There are four outcome options: 1) neither is offered a job; 2) the minority tester alone is offered a job; 3) the majority tester alone is offered a job, and 4) both are offered jobs. They may not necessarily be offered equal jobs, and such differences in treatment are also recorded.

Differences in treatment are recorded by the researchers, including in the content of telephone dialogues and conduct of interviews.

TESTING RESULTS

ILO testing has showed discrimination in access to employment to be a phenomenon of considerable importance in all countries covered by the research. Overall net-discrimination rates of up to 35 per cent were not uncommon, meaning that in at least one out of three application procedures migrants/minorities were discriminated against.

Comparing the job application experience between ‘majority’ and ‘minority’ testers has shown differential treatment in even more dramatic terms, terms also more easily understandable by public audiences. The minority candidates usually have to make three to five times more tries as majority candidates to obtain a positive response in the employment application process. In one local situation, the multiple was 17 times!

In my view, these outcomes not only provide a statistically valid view of the extent and character of discrimination taking place, including, where and how. It also provides a rather dramatic insight of the experience --the differential experience—of minority and migrant origin job seekers in European labour markets. To be told persistently ‘no’ dozens of times in order to land just one positive result would be discouraging for anyone. What are the consequences when it is the common experience of entire groups of young persons in our communities?

The results also tended to show modest differences between different sectors and industries, but often more marked distinctions between small companies and large enterprises; with the latter often showing signs of more equitable treatment. This also offers a cue for policy makers, suggesting need to target employer outreach, support and training towards the small and medium enterprises.

Findings showed discrimination occurring in the three stages of the recruitment process. The first and most common form of discrimination occurred at the first contact between migrant applicant and employer. Blatant, direct discrimination at this stage meant that migrant/minority applicants were often not even able to present their credentials. Often the migrant applicant was simply told that the vacancy was already filled, while the citizen-profile applicant would be invited for an interview. Sometimes, the migrant candidate, distinguishable by his/her foreign-sounding name, was told straight away that foreigners were not wanted.

The second stage of discrimination occurred when both applicants were invited for an interview. At this stage, there were a considerable number of cases where the migrant/minority candidate was subjected to additional qualification requirements while the national candidate was not.

The third stage showed that, if the migrant/minority candidate was offered a job, the terms and conditions of employment tended to be inferior to those offered to the citizen-profile applicant. Above average discrimination rates were detected, particularly in privately owned small and medium sized enterprises in the services sector, and especially for jobs that involve direct contact with clients.

IMPACT

ILO testing research has had significant impact in several countries. Most notably in Belgium, the ILO study was credited with shaping the content of national legislation adopted in 2003 to put into effect the EU Directive on racism (Council Directive 2000/43/EC). We were told that the impact of the ILO testing on national debate ensured that the legislation was the strongest such national legislation adopted up to that time. Campaigns against discrimination were established at regional and federal levels by the three national trade union federations. The national federation of employers adopted a code of practice on anti-discrimination for its constituents. Prompted by the research outcome, both the regional and federal authorities adopted administrative and legal measures. The national Labour Inspectorate added discrimination criteria to its monitoring activity and included it in training of inspectors.

In Spain, the situation testing in 1997 gave impulse to and shaped national legislation, as well as action by both employers and trade unions. However, a subsequent change of government mitigated the impact of new anti-discrimination legislation as priorities turned elsewhere.

In our experience, the impact of the studies and their results depend to a significant degree on the extent to which concerned government entities, social partners and other stakeholders give publicity and attention to the study and follow-up.

It appears that release of the study in France last year had a significant awareness raising effect; the testing was featured on prime time TV news programmes, most national radio, and all major national daily newspapers, as well as many regional and local newspapers. Our estimation is that this alone contributed to visibility and impetus for activity by HALDE, and certainly for new initiatives by some employers.

Two major business groups in France, Casino supermarkets and the world's largest temporary employment agency, ADECCO, have conducted internal situation testing following the ILO approach, to measure their own performance in becoming equal opportunity employers in accord with ethical as well as legal standards.

COMPARABILITY

The question of comparability depends on what comparisons are valid and where comparisons are useful.

This situation testing, done on a periodic basis, could be an excellent measure of how discriminatory behaviour evolves in a particular country. In other words, because the testing can be repeated over time with the same parameters in the same country situation, it offers a real comparison from one period to the next of whether and to what extent actual discriminatory behaviour in the labour market may be changing, or not. The extent and direction of change may provide some indication of the effectiveness or lack thereof of whatever legislation, remedial measures, awareness-raising, training and other activities are conducted to prevent discrimination and encourage equality of treatment.

However, we note that comparison among countries may be more challenging. Each national situation differs in employment market conditions, legislation, ethnic composition, immigration dynamics and other factors. For example, the methodological approach favors testing the largest or most significant immigrant nationalities or backgrounds in order to have an indicative assessment of discriminatory behaviour in the labour market. But these nationalities are different in different European countries.

Scientific rigour would say that the outcomes of the ILO situation testing cannot strictly be compared from one country to another: We do not consider the national testing study data to be rigorously comparable across different countries. However, we note that the results nonetheless allow for some observations across country outcomes. For example, the general rates of discrimination found in different countries were strikingly similar, with in some cases higher differences between cities within countries than among different countries.

One particular distinction noted is that discrimination rates in Sweden were somewhat lower at the first stage of initial contact than in other countries recently tested. Here, a possibly significant difference between

Sweden and other countries recently tested is that Sweden has had a more than 20 year history of strong anti-discrimination law, a functioning *Ombudspersons* monitoring agency, and active government anti-discrimination education, unlike France, Italy and Spain that only very recently established strong anti-discrimination legislation and enforcement agencies.

EXPANDING TESTING

Given the proven usefulness of situation testing to demonstrate discrimination and motivate remedial action, this research tool would be very usefully applied across the EU –and elsewhere for that matter. It could most effectively be done on a periodic basis country by country, to first establish a baseline –which has in effect been done in eight EU countries, then repeated at intervals of, say five years.

The ILO is certainly willing to cooperate further with the EU, its Fundamental Rights Agency, national human rights and discrimination agencies and other actors to further develop and apply this measurement tool, and to use it as a policy tool to enhance implementation of European and national legislation.

Moving from the diagnosis to the prescription and application of remedies, the ILO has already elaborated considerable guidance and support materials based on the experienced and inputs from its constituents: employers, trade unions and government. These include methodologies, training materials, tool kits, motivational pamphlets and other materials to support social partners and relevant authorities in implementing anti-discrimination and integration in workplaces throughout Europe.

We also have built up a large collection of profiles of practices by social partners, NGOs, local authorities and others available on line on our dedicated “Equality” website: www.ilo.org/migrant/equality

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The International Labour Organization is mandated to elaborate, promote and monitor implementation of international standards on treatment of labour, to provide orientation and technical assistance to its tripartite constituents; and to address contemporary issues affecting workers, employers and governments world-wide. In this context, ILO has addressed the treatment of workers including those outside their country of origin since its founding in 1919. It has elaborated International Labour Standards and measures to uphold workers basic rights and dignity and to protect them from all types of discrimination in employment.