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The equal opportunities ombudsman

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* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

The Equal Opportunities Ombudsman

The Equal Opportunities Ombudsman (EOO) was established in 1980 and the same year the first version of the Equal Opportunities Act came into force. The present Act was adopted in the early 90ties. There have been changes in the Act throughout the 90ties. The latest amendment came into force on the 1st of January 2001.

The EOO office deals with equal rights for women and men in the labour market and, since 1st of March 2002, equal treatment of students at the universities.

The legislation follows the traditional pattern of Swedish labour law. Thus it is the employer who is the subject to the prohibition against sex discrimination. And the obligation to promote equality in the work place is the duty of the employer but it shall be carried out in cooperation with the employees or their unions. It is important to note that the legislation is applicable not only to the employees but also to job-applicants. The most characteristic feature though is the combination of the ban on sex discrimination of gender equality in the work place.

The EOO is a Government authority, under the auspices of the Prime Ministers Office. As with other government authorities the Ombudsman enjoys an independent status. The Office reaches its own decisions in individual matters, including errands where critique of the government policies or activities can be at place.

The EOO is the only national authority working exclusively with gender equality, and the scope of the EOO is of course limited because of the size of the office, but also due to the fact that the Equal Opportunities Act only concerns labour market affairs. At present 30 persons are working in the office of the EOO. The office is divided into sections: one section for legal issues, one for advice and proactive measures, one for information work and a section for administration.

The task for and the obligations of the Ombudsman is laid down in the Equal Opportunities Act and The Equal Treatment of Students at Universities Act.

The task is primarily carried out through:

- advice, information and education
- promoting of active measures for equality
- processing of complaints regarding sex discrimination
- overlooking the duties of employers to take active measures to promote equality at the work place
- providing legal assistance in disputes regarding violations of the ban on sex discrimination

The Ombudsmans duties concerning the labour market are not only governed by the Equal Opportunities Act. The Ombudsman also must take into consideration other parts

of related labour law and the European Community Law, as an integrated part of national legislation.

A further duty of the Ombudsman is to take active part in the public debate. The Ombudsman has a specific responsibility to heighten public awareness on questions concerning equality. This includes the writing of articles, participation in seminars, meetings, working groups and active press-relations.

It is of great importance to influence those who are in a position to carry out the necessary changes. Accordingly, the Ombudsman attaches particular importance to co-operation with the social parties in the labour market. The Office has built up a network of representatives of the major employers associations and trade unions.

The EOO organizes educational seminars on how to promote equality in the work place, on legal issues and on other matters related to gender equality. Efforts are also made to inform and update the press. Future employees and employers are important target groups and therefore efforts are made to inform students, but also to work pedagogically with pupils of all ages.

How the task is carried out, firstly:

- 1. Supervising that the employers and the universities fulfil their duties to take active measures in order to promote equality at the work place and at the universities.**

All employers – private or public – that have 10 or more employees, and all universities, must every year make a “gender equality-plan” or “equal-treatment-plan” according to the law. The plan must contain analyses and active measures to promote gender equality in working life and the higher education system.

In the workplaces this includes to ensure that working conditions – tools and showers as well as psychosocial conditions – are suitable to both women and men, facilitation for all employees – women and men – to combine employment with parenthood, prevention of sexual harassment and conditioning of the workplace so that it suits both male and female employees. It also includes the delegation of work in a non-discriminating way, non-discriminating recruitment and promotion of a gender-balanced work-force at all levels of the organization.

The plan also has to contain a complete survey and analysis of the salaries of all employees, in order to eliminate pay differentials based on gender. If such differentials are found, the employer has to present a plan for how to correct these differentials within 3 years.

At the universities attention should be focused on equal opportunities in the education environment, the university culture and the social climate, securing that no student is subjected to gender harassment.

The plan should be drawn up in cooperation with the unions or other representatives for the employees, and, in terms of the universities, in cooperation with the student's organizations.

The plan serves as the basis for the local work at every workplace or university site to promote gender equality. Anyone, an employee, a student, or a member of the public, may report to the EOO that a certain employer or university does not live up to the requirements of the law, in which case we investigate the plan of the employer or university in question.

The EOO also constantly carries out random controls of the gender equality plans in order to exercise pressure of the responsible parties to take action.

Should an employer refuse to present a plan according to the law, we can force them to do so under the threat of a fine. For the universities legal sanctions are not yet fully in place.

Secondly, the EOO works with

2. Processing of complaints regarding sex discrimination

The EOO receives complaints from individual employees or students about sex discrimination. The staff of jurists undertakes an impartial investigation of the complaint, hearing both the complainant and the employer/university leadership.

Should the jurists find that it is a case of discrimination, they try to come to a settlement between the parties, where the complainant accepts an economic compensation from the employer or the university. Should a settlement not be possible to obtain, the EOO can take the case to the Labour Court of Sweden, or to a civil court in terms of the universities.

3. Advice, information and education

The EOO also puts a lot of effort into information and education of employers, trade-union representatives, teachers, students, university leaders and the public in general. This part of our duty is often carried out in form of campaigns and projects around a certain topic. It is of great importance to influence those who are in a position to carry out the necessary changes. Accordingly, the EOO attach particular importance to co-operation with the parties in the labour markets.

The impact of the Equal Opportunities Act

Can you achieve radical changes of attitudes in society by the use of legislation? Is it possible, and for that matter desirable, for the state to force through radical changes of the way it has organized itself? The answer to these questions is at first sight – no. Profound

changes can only be obtained as a result of pressure of the people. Discrimination can only be eliminated if the oppressed groups organize themselves and demand their rights. But, on the other hand, if one look upon equality between women and men as a matter of Human Rights the perspective will change and the role of the state gets interesting. In a democratic society the state, through its different institutions, has a particular responsibility to safeguard and deepen the democracy.

The conclusion is therefore, it is necessary to have provisions laid down in the constitution guaranteeing equal rights for women and men, but it is not enough. There is a need for a specific law prohibiting discrimination on the grounds of sex.

You must also have some kind of legislation obliging for instance the employers to take active measures in order to promote gender equality. In other words – it is crucial to have a sharp and distinct legislation and an independent and powerful authority to supervise the obedience to the laws, all in order both to support a process that already is going on and to break down the resistance to a gender equal society.

Naturally the struggle for an equal society has been initiated and carried out by women and the opponents have been and still mainly are men. This fact is important concerning the strategy for the future work. In Sweden we have since some years put focus on the necessity to involve men in the work for a radical change. For one thing men, representing the oppressing group of humanity through all history, have a certain responsibility to engage themselves in the strive for another and better society. Secondly, it is not possible to reorganize the society in a gender equal way without participation by half of its members. In this context it is important to stress that there often is a misunderstanding of what equality between women and men really stands for. Some people, most often spelled men, think that equality means that women should be offered the privilege to rise from the level where they have been dwelling for so long and reach the promising heights where men have been ruling since the beginning of history. This is not what equality is about. Equality is not a goal but an instrument for liberation of both women and men.