

## **General**

### ***Dictionary definition***

1. An act or instance of discriminating.
2. Treatment or consideration of, or making a distinction in favour of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit: racial and religious intolerance and discrimination.
3. The power of making fine distinctions; discriminating judgment: She chose the colours with great discrimination.
4. Archaic. Something that serves to differentiate.

*(Dictionary.com: Definitions.  
http://dictionary.reference.com/browse/discrimination. [30.10.2007])*

### ***Other definition***

Most broadly, discrimination is to recognize qualities and differences of certain things or persons and making choices based on those qualities. Discriminating between people on the grounds of merit is generally lawful in Western democracies. Discrimination on other grounds, such as skin colour or religion, generally is not. When unlawful discrimination takes place, it is often described as discrimination against a person or group of people.

Unlawful discrimination can be characterized as direct or slightly less direct. Direct discrimination involves treating someone less favourably because of their possession of an attribute (e.g., sex, age, race, religion, family status, national origin, military status, disability), compared with someone without that attribute in the same circumstances. An example of direct discrimination would be not giving a woman a job because she is more likely to take maternity leave. Indirect discrimination involves setting a condition or requirement which a smaller proportion of those with the attribute are able to comply with, without reasonable justification.

*(Wikipedia: Discrimination. http://en.wikipedia.org/wiki/Discrimination.  
[30.10.2007])*

## **Racial discrimination**

In the United States, racial profiling of minorities by law enforcement officials has been called racial discrimination. As early as 1866, the Civil Rights Act provided a remedy for intentional race discrimination in employment by private employers and state and local public employers. The Civil Rights Act of 1871 applies to public employment or employment involving state action prohibiting deprivation of rights secured by the federal constitution or federal laws through action under color of law. Title VII is the principal federal statute with regard to employment discrimination prohibiting unlawful employment discrimination by public and private employers, labor organizations, training programs and employment agencies based on race or color, religion, gender, and national origin. Title VII also prohibits retaliation against any person for opposing any practice forbidden by statute, or for making a charge, testifying, assisting, or participating in a proceeding under the statute. The Civil Rights Act of 1991 expanded the damages available in Title VII cases and granted Title VII plaintiffs the right to a jury trial. Title VII also provides that race and color discrimination against every race and color is prohibited, including whites, blacks, hispanics, and Asians.

In the UK the inquiry following the murder of Stephen Lawrence accused the police of institutional racism.

*(Wikipedia: Discrimination. <http://en.wikipedia.org/wiki/Discrimination>. [30.10.2007])*

### General use

As racism carries references to race-based bigotry, prejudice, violence, oppression, stereotyping or discrimination, the term has varying and often hotly contested definitions. Racialism is a related term intended to avoid these negative meanings. According to the Oxford English Dictionary, racism is a belief or ideology that all members of each race possess characteristics or abilities specific to that race, especially to distinguish it as being either superior or inferior to another race or races. The Merriam-Webster's Dictionary defines racism as a belief that race is the primary determinant of human traits and capacities and that racial differences produce an inherent superiority of a particular race, and that it is also the prejudice based on such a belief. The Macquarie Dictionary defines racism thus: the belief that human races have distinctive characteristics which determine their respective cultures, usually involving the idea that one's own race is superior and has the right to rule or dominate others.

### Legal definition

According to UN International Conventions, "the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." This definition does not make any difference between prosecutions based on ethnicity and race, in part because the distinction between the ethnicity and race remains debatable among anthropologists. According to British law, racial group means "any group of people who are defined by reference to their race, colour, nationality (including citizenship) or ethnic or national origin" .

### Sociological Definitions

Some sociologists have defined racism as a system of group privilege. In *Portraits of White Racism* David Wellman (1993) has defined racism as "culturally sanctioned beliefs, which, regardless of intentions involved, defend the advantages whites have because of the subordinated position of racial minorities," (Wellman 1993: x). Sociologists Noel Cazenave and Darlene Alvarez Maddern define racism as "...a highly organized system of 'race'-based group privilege that operates at every level of society and is held together by a sophisticated ideology of color/'race' supremacy. Racist systems include, but cannot be reduced to, racial bigotry," (Cazenave and Maddern 1999: 42). Sociologist and former American Sociological Association president Joe R. Feagin argues that the United States can be characterized as a "total racist society" because racism is used to organize every social institution (Feagin 2000, p. 16). This definition stands in contrast to a definition that presumes racism to be an irrational form of bigotry that is not connected to the organization of social structure.

### Race: social construct or genetic reality?

Many scholars maintain race to be a social construct with potent social and political effects but no basis in biological science. Scholars such as anthropologist Audrey Smedley (2007) contend that the very idea of 'race' implies inequality and hierarchy. It has also been claimed that biologically there are no scientific classifications that delineate human groups into 'races' (Graves 2004). Historians such as Theodore Allen (1994; 1997) have analyzed colonial records from Virginia and concluded that the idea of a "white race" was originally invented in the early 18th century to splice together various European ethnic groups who never before thought they had anything in common. Noel Ignatiev (1995) has written an historical analysis of how the Irish became members of the "white race" in the 19th century. Smedley and Smedley (2005: 16) state: "The consensus among most scholars in fields such as evolutionary biology, anthropology, and other disciplines is that racial distinctions fail on three counts--that is, they are not genetically discrete, are not reliably measured, and are not scientifically meaningful."

## Ideology

As an ideology, racism existed during the 19th century as "scientific racism", which attempted to provide a racial classification of humanity[10]. Although such racist ideologies have been widely discredited after World War II and the Holocaust, the phenomena of racism and of racial discrimination have remained widespread all over the world.

It was already noted by DuBois that in making the difference between races, it is not race that we think about, but culture: "...a common history, common laws and religion, similar habits of thought and a conscious striving together for certain ideals of life" Late nineteenth century nationalists were the first to embrace contemporary discourses on "race", ethnicity and "survival of the fittest" to shape new nationalist doctrines. Ultimately, race came to represent not only the most important traits of the human body, but was also regarded as decisively shaping the character and personality of the nation. According to this view, culture is the physical manifestation created by ethnic groupings, as such fully determined by racial characteristics. Culture and race became considered intertwined and dependent upon each other, sometimes even to the extent of including nationality or language to the set of definition. Purity of race tended to be related to rather superficial characteristics that were easily addressed and advertised, such as blondness. Racial qualities tended to be related to nationality and language rather than the actual geographic distribution of racial characteristics. In the case of Nordicism, the denomination "Germanic" became virtually equivalent to superiority of race.

Bolstered by some nationalist and ethnocentric values and achievements of choice, this concept of racial superiority evolved to distinguish from other cultures that were considered inferior or impure. This emphasis on culture corresponds to the modern mainstream definition of racism: "Racism does not originate from the existence of 'races'. It creates them through a process of social division into categories: anybody can be racialised, independently of their somatic, cultural, religious differences." This definition explicitly ignores the fiery polemic on the biological concept of race, still subject to scientific debate. In the words of David C. Rowe "A racial concept, although sometimes in the guise of another name, will remain in use in biology and in other fields because scientists, as well as lay persons, are fascinated by human diversity, some of which is captured by race."

Until recent history this racist abuse of physical anthropology has been politically exploited. Apart from being unscientific, racial prejudice became subject to international legislation. For instance, the Declaration on the Elimination of all Forms of Racial Discrimination, adopted by the United Nations General Assembly on November 20, 1963, address racial prejudice explicitly next to discrimination for reasons of race, colour or ethnic origin .

Racism has been a motivating factor in social discrimination, racial segregation, hate speech and violence (such as pogroms, genocides and ethnic cleansings). Despite the persistence of racial stereotypes, humor and

epithets in much everyday language, racial discrimination is illegal in many countries. Some politicians have practiced race baiting in an attempt to win votes.

*(Wikipedia: Racism. <http://en.wikipedia.org/wiki/Racism>. [30.10.2007])*

Racism has existed throughout human history. It may be defined as the hatred of one person by another -- or the belief that another person is less than human -- because of skin colour, language, customs, and place of birth or any factor that supposedly reveals the basic nature of that person. It has influenced wars, slavery, the formation of nations, and legal codes.

During the past 500-1000 years, racism on the part of Western powers toward non-Westerners has had a far more significant impact on history than any other form of racism (such as racism among Western groups or among Easterners, such as Asians, Africans, and others). The most notorious example of racism by the West has been slavery, particularly the enslavement of Africans in the New World (slavery itself dates back thousands of years). This enslavement was accomplished because of the racist belief that Black Africans were less fully human than white Europeans and their descendants.

This belief was not "automatic": that is, Africans were not originally considered inferior. When Portuguese sailors first explored Africa in the 15th and 16th centuries, they came upon empires and cities as advanced as their own, and they considered Africans to be serious rivals. Over time, though, as African civilizations failed to match the technological advances of Europe, and the major European powers began to plunder the continent and forcibly remove its inhabitants to work as slave labourers in new colonies across the Atlantic, Africans came to be seen as a deficient "species," as "savages." To an important extent, this view was necessary to justify the slave trade at a time when Western culture had begun to promote individual rights and human equality. The willingness of some Africans to sell other Africans to European slave traders also led to claims of savagery, based on the false belief that the "dark people" were all kinsmen, all part of one society - as opposed to many different, sometimes warring nations.

One important feature of racism, especially toward Blacks and immigrant groups, is clear in attitudes regarding slaves and slavery. Jews are usually seen by anti-Semites as subhuman but also superhuman: devilishly cunning, skilled, and powerful. Blacks and others are seen by racists as merely subhuman, more like beasts than men. If the focus of anti-Semitism is evil, the focus of racism is inferiority -- directed toward those who have sometimes been considered to lack even the ability to be evil (though in the 20th century, especially, victims of racism are often considered morally degraded).

In the second half of the 19th century, Darwinism, the decline of Christian belief, and growing immigration were all perceived by many white Westerners as a threat to their cultural control. European and, to a lesser degree, American scientists and philosophers devised a false racial "science" to "prove" the supremacy of non-Jewish whites. While the Nazi annihilation of Jews discredited most of these supposedly scientific efforts to elevate one

race over another, small numbers of scientists and social scientists have continued throughout the 20th century to argue the inborn shortcomings of certain races, especially Blacks. At the same time, some public figures in the American Black community have championed the supremacy of their own race and the inferiority of whites - using nearly the identical language of white racists.

All of these arguments are based on a false understanding of race; in fact, contemporary scientists are not agreed on whether race is a valid way to classify people. What may seem to be significant "racial" differences to some people - skin color, hair, facial shape - are not of much scientific significance. In fact, genetic differences within a so-called race may be greater than those between races. One philosopher writes: "There are few genetic characteristics to be found in the population of England that are not found in similar proportions in Zaire or in China....those differences that most deeply affect us in our dealings with each other are not to any significant degree biologically determined."

*(Anti Defamation League: Racism. <http://www.adl.org/hate-patrol/racism.asp>. [30.10.2007])*

## **Racism in Europe**

Europe is often one of the first places people think of when racism is discussed. From the institutionalized racism, especially in colonial times, when racial beliefs — even eugenics — were not considered something wrong, to recent times where the effects of neo-Nazism is still felt. Europe is a complex area with many cultures in a relatively small area of land that has seen many conflicts throughout history. (Note that most of these conflicts have had trade and resource access at their core, but national identities have often added fuel to some of these conflicts.)

Racism has also been used to justify exploitation, even using "pseudoscience":

Debates over the origins of racism often suffer from a lack of clarity over the term. Many conflate recent forms of racism with earlier forms of ethnic and national conflict. In most cases ethno-national conflict seems to owe to conflict over land and strategic resources. In some cases ethnicity and nationalism were harnessed to wars between great religious empires (for example, the Muslim Turks and the Catholic Austro-Hungarians). As Benedict Anderson has suggested in *Imagined Communities*, ethnic identity and ethno-nationalism became a source of conflict within such empires with the rise of print-capitalism.

In its modern form, racism evolved in tandem with European exploration and conquest of much of the rest of the world, and especially after Christopher Columbus reached the Americas. As new peoples were encountered, fought, and ultimately subdued, theories about "race" began to develop, and these helped many to justify the differences in position and treatment of people

whom they categorized as belonging to different races (see Eric Wolf's *Europe and the People Without History*).

Another possible source of racism is the misunderstanding of Charles Darwin's theories of evolution. Some took Darwin's theories to imply that since some "races" were more civilized, there must be a biological basis for the difference. At the same time they appealed to biological theories of moral and intellectual traits to justify racial oppression. There is a great deal of controversy about race and intelligence, in part because the concepts of both race and IQ are themselves controversial.

— *Racism, Wikipedia, The Free Encyclopedia, May 1, 2004*

In "the century of total war", and the new millenium, Europe is seeing an alarming resurgence in xenophobia and racial hatred.

A short review from the Inter Press Service highlights the rise of neo-Nazism in 2000 in Europe and suggests that "far from being a fringe activity, racism, violence and neo-nationalism have become normal in some communities. The problems need to be tackled much earlier, in schools and with social programmes."

Ethnic minorities and different cultures in one country can often be used as a scapegoat for the majority during times of economic crisis. That is one reason why Nazism became so popular.

In France, May 2002, the success of far right politician Le Pen in the run for leadership (though he lost out in the end) sent a huge shockwave throughout Europe, about how easy it was for far right parties to come close to getting power if there is complacency in the democratic processes and if participation is reduced.

In various places throughout Western Europe, in 2002, as Amnesty International highlights, there has been a rise in racist attacks and sentiments against both Arabs and Jews, in light of the increasing hostilities in the Middle East.

Earlier in 1998, in an area of Germany a right wing racist party won an unprecedented number of votes.

In Austria, the Freedom Party was able to secure the majority of the cabinet posts. The party is an extreme far right party, whose leader, Jorg Heider, has been accused of sympathetic statements towards the Nazis. The European Union has reacted to this indicating that Austria's participation may be in jeopardy. This Guardian Special Report has much more in-depth coverage.

In Italy, there are attempts to try and deal with the rise in undocumented immigrants from Tunisia. The reactions from the right wing have been labeled by some as being "openly racist".

In 1997, Human Rights Watch noted that, "The U.K. has one of the highest levels of racially-motivated violence and harassment in Western Europe, and the problem is getting worse." In April 1999, London saw two bombs explode in predominantly ethnic minority areas, in the space of one week, where a Nazi group has claimed responsibility. The summer of 2001 saw many race-related riots in various parts of northern England.

Spain has seen increased racial violence lately. The growing economy invites immigrants from North African countries such as Morocco. However, the poor conditions that immigrants have had to endure and the already racially charged region has led to friction and confrontations.

Greece has one of the worst records in the European Union for racism against ethnic minorities, according to the BBC. Anti-immigrant sentiment has long been high, especially against ethnic Albanians, who form the largest minority. Until the 1990s, the BBC notes, Greece had been an extremely homogenous society. With the fall of communism many immigrants from Eastern Europe came to Greece. Albanians especially have been targeted by a lot of racist sentiment. Some hostage taking by a few Albanians in recent years has not helped the situation.

So far, the above represents an incredibly tiny number of examples and details. Many, many more events haven't been mentioned, as it is admittedly difficult to keep up with all the different items. For more details and up-to-date information, one web site to check out the UK-based Institute of Race Relations and their subsection attempting to document the rising support for the extreme-Right in local and central government in Europe, building on a platform of populist anti-immigrant policies.

### **Racism in Australia**

In 1987, a sensational "discovery" was made by a Sydney University team, led by Australia's most celebrated pre-historian, Professor D J Mulvaney. They reported that the Australian population in 1788 was 750,000, or three times the previous estimate. They concluded that more than 600,000 people had died as result of white settlement.

— *John Pilger, Cathy Freeman's broad Olympic smile is being used to conceal a multitude of Australia's original sins, July 10, 2000*

In June 1998, One Nation, an Australian nationalist party in Queensland won 25 percent of the votes with their main lines at fighting immigration by non-whites. This was made possible where unemployment was been high and where it was easy to convince the people that immigrants were taking their jobs, as it would serve to be a convenient excuse and avenue to vent frustration. In a speech the party leader said that Australia was "in danger of being swamped" by Asians and she also questioned the special welfare benefits for Australia's Aborigines. The reaction to that meant the same party won only 6 percent of the votes two months later, in the State elections.

Australia has also had a very racist past in which apartheid has been practiced and where indigenous Aboriginal people have lost almost all their land and suffered many prejudices. In the past, the notorious policy that led to the Stolen Generation was practiced. This was the institutionalized attempt to prevent Aboriginal children (and thus future generations) from being socialized into Aboriginal culture. (This also occurred in various parts of the Americas too.)

Aborigines are the poorest group in Australia and suffer from very many preventable diseases. For more about these issues, you can start at these harrowing reports from John Pilger a prominent Australian journalist who has been critical of many western policies.

The Sydney 2000 Olympics also brought some of Australia's racist past and present to the fore. (On the positive side, many parts of Australia's rich diversity in people is slowly helping relieve prejudice. However, some more traditional and conservative politicians are still openly racist.)

### **Racism in Africa**

A number of nations in Africa are at war or civil war, or have been very recently, just few years after they have gained their independence from former colonial countries.

While most of the conflicts have resources at their core, and involve a number of non-African nations and corporations, additional fuel is added to the conflict by stirring up ethnic differences and enticing hatred. (Also not that the artificial boundaries imposed in Africa by European colonialism and imperialism during the divide and rule policies has further exacerbated this situation and plays an enormous role in the root causes of these conflicts compared to what mainstream media presents.)

In Zimbabwe, there has been increasing racism against the white farmers, due to poverty and lack of land ownership by Africans. South Africa until recently suffered from Apartheid, which legally segregated the African population from the Europeans.

Racism in the Middle East For a long time there has been resentment by many in the Middle East at the policies of the American and other governments in their region. For many of the more extremist factions, this has turned into a form of racism as well, where many things that are western are hated or despised.

The situation of Palestine and Israel is also very contentious - extreme views on both sides by perhaps a minority, but perhaps an influential and often violent minority, results in racism on both sides.

With the terrible acts of terrorism committed by terrorists in America, on September 11, 2001, there has additionally been an outpouring of violent racial hatred by a minority of people in Western countries against people that look Middle Eastern (some who are not Middle Eastern, such as Indians, have even been beaten or killed). Furthermore, with the American-led attacks in Afghanistan in retaliation for those terrorist attacks, from Egypt to Pakistan, there have been minorities of people who have protested violently in the streets, and also committed racist acts, attacking anything that appears Western, from Western citizens, to even UNICEF and other UN buildings.

Yet, this is more complex than just a clash of religions and race, as deeper an issue is the geopolitical and economic activities of the past decades and centuries that have fueled these social tensions. The Middle East is definitely a very sensitive issue politically. See this web site's section on the Middle East for more on that.

## **Racism in Asia**

In Cambodia, there has been a strong anti-Vietnamese sentiment. In Indonesia there has been a lot of violence against the affluent Chinese population who have been blamed for economic problems that have plagued the country in recent years.

As noted by Wikipedia in an article on racism, "until 2003, Malaysia enforced discriminatory laws limiting access to university education for Chinese students who are citizens by birth of Malaysia, and many other laws explicitly favoring bumiputras (Malays) remain in force."

## **Racism in North America**

A report from Survival International about the plight of the Innu people in Canada also reveals how racism can be a factor. In the words of the authors, the "report reveals how racist government policies, under the guise of benevolent 'progress', have crippled the Innu of eastern Canada — a once self-sufficient and independent people." (While this report is about the problems of an indigenous people in Canada, it is a common story throughout history for many peoples and cultures.)

In the US, racism is a well known issue, from racial profiling to other issues such as affirmative action, police brutality against minorities and the history of slavery and the rising resentment against immigrants.

Since the horrific terrorist attacks on the United States on September 11, 2001, Security concerns have understandably increased, but so too has racial profiling, discrimination etc. In the early aftermath of the attacks some Americans that were understandably outraged and horrified, even attacked some members of the Sikh community where at least one was even killed, because they resembled certain types of Muslims, with beards and turbans. Various people of Middle East or South Asian origin have faced controversial detentions or questionings by officials at American airports. This web site's section on the war against terror has more details on these aspects.

*(Global Issues: Racism.*

*<http://www.globalissues.org/HumanRights/Racism.asp>. [30.10.2007])*

## ***Specific areas***

### **Chile**

Located in South America, Chile is a country that viewed itself with a high degree of both European and/or Amerindian blood, but demography and national politics has argued over whether or not Chileans are more of a white people, a mestizo majority, or descendants from a multiplicity of ethnic groups, since Chile had attracted waves of European immigrants in the late 19th/early 20th centuries.

If the Chilean people feel they have Amerindian, Spanish or in many cases: British (English/Irish), French or Swiss, German or Austrian, Italian, Portuguese, Yugoslavian (Serbian/Croatian) and Arab (Lebanese/Syrian) ancestry, it won't explain the problematic issues faced by most Latin American countries is poverty affects a large segment of Chilean society the same way the middle-classes are 40 percent of the population, one of Latin America's largest groups of affluent or financially secure peoples. Disputed but asymmetrical statistics shown that between 20 to 50 percent of the Chilean population, are poor and in the low income strata, mainly consists of mestizos and Amerindians.

The national cultural profile of Chile appears more of a white country located in the southern hemisphere surrounded by more Amerindian or mestizo majority Latin America, might indicated the political and cultural ethos of the Chilean government under an elite not typically identified as mestizos, since its' independence in 1818 from Spanish rule.

The Chilean government like most Latin American nations, used policies and public messages in attempt to encourage their people to take pride of their mestizo background, but like its mostly white neighbor Argentina, insisted it has a more European cultural integrity. Chile passed several laws and changed their 1925 constitution to prohibit racial discrimination in public or private employment, and despite its Catholic majority, the country allowed freedom of religion for its small Protestant, Eastern Orthodox, Jewish, Mormon and other religious communities.

Chile had a history of high levels of socio-economic inequality despite its' tradition of ensured economic prosperity and social protection laws enacted in the early 20th century. But the country's small wealthy elite is predominantly of Spanish and other European descent, whom might been allowed to take Mapuche, Aymara or Incan wives in order to procreate children to inherit the land.

The Roman Catholic Church promoted the white Spanish settlers and later European immigrants to intermarry the indigenous or mestizo majority, with disregard to their racial origin or skin color, in order to procreate a new colony. From the first census in 1821 to the 1901 census report, Chile had grown from 500,000 to near 3 million people, but still today much of the country is sparsely populated.

However, Chile has experienced many levels of racial conflict between its' indigenous peoples (esp. between the Mapuches) and Spanish conquistadors who from 1541, had a 350-year conflict ending in defeat and oppression of the Mapuche by chileanos.

The Mapuches were expert warriors and knew how to have battles with little casualties or defeats with the first Spanish, then Chilean armies, but the Mapuches' fighting skills declined in efficiency and they surrendered to the Chileans in the 1880s, to increase their level of racial malignment and economic status in the next century, as they joined the ranks of lower-class Chileans (esp. mestizos not considered "white" or not from land inheritance families) into the status of underpaid or overworked farmers and miners in the early 20th century.

When it comes to a history being a land of untapped natural sources abound in its' thin (its widest point is 100 miles) but 3,000 mile long shape, Chile

should highly profited from its' major byproducts: copper, nitrates and sulfates exported to the global market, esp. in high demand in World Wars I and II, provided a high source of financial revenue for the "white" political and business elite.

The Mapuche only made up 3 percent of the country's population, but continued to encounter open and subliminal forms of racial prejudice, and the majority of Mapuche migrated to the cities in search of work and opportunity find themselves in the bottom of the country's defined class system. In Santiago, the country's capital and largest city, the endless influx of rural tenants now represent over half the city population, neighborhoods of dirt floor slums, rickety shacks and substandard housing, and these areas are avoided by local upper middle classes don't want to witness or get near the poverty and racial tension of Amerindians under "white" rule.

Similarly Polynesian Rapanuis of Easter Island, located 2,000 miles (1,400 km.) west of Chile, has been under Chilean rule since 1888. But until 1966 the Rap Nui were not granted full Chilean citizenship, and for most of that time they were confined to the town of Hanga Roa and its environs and not allowed to visit their ancestral homes. When Chile annexed the island only 111 Rapa Nui survived after two centuries of slave raiding, European diseases, famine and civil war, numbers have now recovered somewhat but tensions remain.

The Rapanui recently demanded more political autonomy and cultural preservation after introduction of culture and technology from the outside world, in the same time the Rapanui had very high rates of poverty than Chileans on the mainland, and until the late 1980s the Chilean government restricted the Rapanui language, cultural practices and although mostly Catholic, their animist religious elements to preserve their traditional integrity as a South Pacific people. In the late 1990s, autonomous rule was granted to the Rapanui of Easter Island.

Chileans had a strong emotional pull on issues relating to poverty, racism and class distinction, although the Chileans are discovering how deep the impact of racial and class divisions had on the country in the 1940s and 1950s, along with a growing concern in leftist circles to produce a small opposition to promote liberal reforms. The country had a large political presence of left-wing activists and an active Communist party from the 1930s (the first in Latin America, but was banned under law in 1956 and permanently in 1973) whom opposed what they felt the country's economic system was oppressive, a highly unequal distribution of wealth, and lack of opportunities that most rural mestizos and Amerindians encountered.

The leftists called the system as an anathema of a developing country, once in the late 1960s had a billion-dollar surplus in its' treasury accumulated by mining profits, could be used to fund one of the world's oldest social welfare state programs. After leftist parties were elected to majority status in Chilean congress, they created farm work programs and subdivided large estates into collective farms, but was small land plots for rural mestizo peasants.

In 1970, Salvador Allende, the first Marxist president elected in the western hemisphere tried to decrease the country's huge class disparities through changes in banking, the national treasury, land ownership and

nationalization of private industry. Allende promised to boost the buying power and financial security of the poorest and working-class Chileans (especially mestizos and Amerindians) he got the most popularity from, but this came with a price by high opposition of the upper-class and businessmen got the Chilean army to take care of an ailing economy, and protect their wealth and business interests from damage by the Allende regime.

In the bloody coup in 1973, Allende was found dead (or allegedly killed), might put an end to his socialist reforms to decrease racial and class disparity, as Chile fell under a military dictatorship by general Augusto Pinochet from evident assistance from the US-CIA, as Chilean leftists and worldwide left-wing activists claimed, meant to preserve the "status quo" of the rich "white" Spanish elite whom supported Pinochet to take power, over the Amerindians, mestizos and the working poor.

From 1973 to his retirement in 1990, Pinochet had a "laissez-faire" approach to business, and promised to restructure the social, political and economic functions of Chile left damaged or neglected by previous governments and when civilian rule returned in 1989, the Chilean congress began to focus again on racial and ethnic issues once scorned by Pinochet in order to avoid being labeled as "socialist agitation". Pinochet wanted to preserve the status quo of business elite interests, emphasized a more nationalistic ideology of conservative and patriotic values on what he viewed the Chilean people, and took little consideration on poverty and racism faced by large numbers of lower-class mestizos.

In the 1990s and early 2000s, Chile enjoyed unprecedented economic growth and more middle-class Chileans began to have a higher standard of living by a mixed socialist/capitalist free market. The Chilean government with restored democratic rule began to discuss on including every Chilean not of upper-class or mostly European ancestry to not only share, but invest in financial gains after authoritarian rule ended.

Chilean poverty rates were cut in half from 45% in 1989 to 18% in 2005. However, its small Mapuche minority whom lived apart and encountered racial insults by non-Amerindian or "white" Chileans struggle to keep their autonomy and livelihood, a byproduct of over four centuries of their servitude and inferior status in a Hispanic country.

Recent waves of immigration from East or South Asia, Eastern Europe and other Latin American countries came to Chile in a fast pace, but most Chileans hold little prejudices on the basis of race or ethnicity but Chileans complained they wanted these immigrants to assimilate and contribute to the country, the homogeneous "melting pot" concept known as Chileanidad at large.

But, Chile was also a site of pro-Nazi political activity to nearly claimed electoral victories in the 1930s and early 1940s, but Chile was a wartime ally against Nazi Germany. In recent years (early 2000s) Chile got into news reports as active in far-right and "skinhead" gangs had racial and anti-Semitic views, and the country has an image of low percentages of black Africans (less than 1 percent, lower than numbers of east Asians or Japanese-Chileans), but this came from a low need for slavery in colonial Chile has explained the ethnographic trend.

The country had an emotionally charged argument for so long whether or not to admit a mestizaje side in a Hispanic culture modeled on that of Northern/western Europeans, and the country's small black minority doesn't feel regularly threatened for their race, since Chilean law has traditionally avoided racial segregation, but nonetheless experienced the plight of its' "non white" mestizo, black, Asian, Amerindian and Rapanui populations.

## **France**

The French have a long history of ethnic and racial conflicts. Anti-Semitism, a common trend in European history, is also highlighted in French history by events such as the Dreyfus Affair at the turn of the nineteenth century, and France's treatment of its Jewish population during the Vichy regime. Likewise, the treatment of North Africans and other former colonials during the colonial era, the atrocities committed in Algeria during the War of Independence (1954-1962) and also the Paris massacre of 1961 are also signs of intolerance. The fact that Algerians formed the bulk of late-twentieth century immigration has raised delicate issues, which are exacerbated by the degradation of the general social situation. In the 1970s Jean Raspail wrote *The Camp of the Saints* which some felt implied African immigrants should be drowned or shot to prevent them from entering France.

In 1998 the Council of Europe's European Commission Against Racism and Intolerance (ECRI) made a report stating concern about racist activities in France and accused the French authorities of not doing enough to combat this. The report and other groups have expressed concern about organizations like Front National (France). In a recent Pew Survey, 47% of the French deem immigration from Eastern Europe to be a bad thing. A small minority shows signs of Anti-Semitism. Roughly 11% had an unfavorable view of Jews and 8% felt that US policy was most influenced by the Jews. In the colonial age some French also displayed negative sentiments toward black Africans.

Nevertheless these judgments should be balanced by the following: Canadians had roughly the same percentage linking US policy to Jews as France did. Furthermore, France had been ruled by Jewish leaders during the twentieth century (most notably Léon Blum and Pierre Mendès-France, who were both highly popular). Indeed, France has a long history of support for universalism dating back to the Enlightenment : the unenforced constitution of 1794 gave the right to vote to all "foreigners" (independently of any racial consideration) living in France for more than one year. The French also generally have a greater interest in African culture and aid to the region.

The Palestine question is widely known to have "imported" Jews vs Arabs' mutual hatred into the French society as a whole. When in October and November of 2005, violent riots erupted in north-east Paris, and later other

cities around France, after two presumably innocent youths of North African origin were accidentally electrocuted after they were chased by the police, some German and French media accused Israeli's secret services, the Mossad, of covert operations behind the general troubles.

France is home to Europe's largest population of Muslims — about 6 million — as well as the continent's largest community of Jews, about 600,000. Over the last several years, anti-Jewish violence, property destruction, and racist language has been wildly increasing and French-Jews are worried more every month that it will spiral even higher. Jewish leaders perceive an intensifying anti-Semitism in France, mainly among Muslims of Arab or African heritage, but also growing among Caribbean islanders from former colonies.

In May 2005, there have been explosive riots between North Africans and Romas in Perpignan, France, after young Arab man was shot dead and another Arab man was lynched by a group of Roma.

It must be added here, as a conclusion to this chapter about racism and anti-semitism in France, that in the 2007 presidential elections, the French have elected Nicolas Sarkozy, the son of an immigrant Hungarian, who, together with his wife Cecilia, are both of Jewish descent. Nicolas Sarkozy, who is right wing, has nominated many personalities also of Jewish descent, although left wing, to head important ministries in his government, most noticeably Foreign Minister Bernard Kouchner. Recently, in September 2007, Kouchner very suddenly raised the question of a threat of "war" with Iran provoking general controversy and criticisms about the new government seemingly open bias, now representing a clear rupture with France's usual and traditionally more balanced foreign policy.

## **India**

It is claimed by some activists that casteism practised in India is a form of racism, but this is debated by those who believe that casteism has nothing to do with physical attributes, unlike racism. At the UN world conference on racism (August 31 - September 7 2001) the Indian Government opposed the discussion of caste in the conference, saying that "the caste issue is not the same as racism".

Such allegations have also been rejected by many sociologists such as Andre Béteille, who writes that treating caste as a form of racism is "politically mischievous" and worse, "scientifically nonsense" since there is no discernable difference in the racial characteristics between Brahmins and Scheduled Castes. He writes that "Every social group cannot be regarded as a race simply because we want to protect it against prejudice and discrimination". In addition, the view of the caste system as "static and unchanging" (which would indicate a form of racial discrimination) has been disputed by many scholars. Sociologists describe how the perception of the

caste system as a static and textual stratification has given way to the perception of the caste system as a more processual, empirical and contextual stratification. Others have applied theoretical models to explain mobility and flexibility in the caste system in India. According to these scholars, groups of lower-caste individuals could seek to elevate the status of their caste by attempting to emulate the practices of higher castes.

Sociologist M. N. Srinivas has also debated the question of rigidity in Caste. For details see sanskritization.

Pakistani-American sociologist Ayesha Jalal also rejects these allegations. In her book, "Democracy and Authoritarianism in South Asia", she writes that "As for Hinduism, the hierarchical principles of the Brahmanical social order have always been contested from within Hindu society, suggesting that equality has been and continues to be both valued and practiced."

Historically, many Hindu reform movements have actively combated casteism and the practice of untouchability (segregation of the lower castes). In order to curb the practice of caste-based discrimination, numerous laws, including constitutional laws, have been passed in India outlawing casteist discrimination. Special quotas are provided to the lower castes in access to schools and jobs. Lower caste political parties have achieved increasing prominence in the Indian political landscape since India's independence. The public practice of casteism has diminished significantly among the large urban and cosmopolitan classes in India. Nonetheless, the fight to end casteism is an uphill struggle, especially in rural areas where education and modernity are scarce; and numerous hate crimes have taken place in India that have been attributed to Casteism.

India's treatment of its lower-class Dalits has been described by UNESCO as "India's hidden apartheid". According to Rajeev Dhavan, of India's leading English-language newspaper The Hindu, "casteism is India's apartheid which will continue in its most vicious and persistent forms for decades to come." Eric Margolis has claimed that India "frantically tr[ie]d to prevent its caste system, which is often called 'hidden apartheid' from being put on the agenda of the 2001 World Conference against Racism in Durban.

They were not allowed draw water from the same wells as those with caste, and they usually lived in segregated neighborhoods outside the main village. The majority of rural Dalits still live in segregation and experience atrocities to the scale of 110,000 registered cases a year according to 2005 statistics. Additionally, Anti-Brahmanist racial sentiments have been expressed by extremist fringe groups among Dalit Nationalists.

However, such allegations of apartheid are regarded by academic sociologists as a political epithet, since apartheid implies state sponsored discrimination, and no such thing exists in India. Anti-dalit prejudice and discrimination is a social malaise that exists primarily in rural areas, where small societies can track the caste lineage of individuals and discriminate accordingly.

Sociologists Kevin Reilly, Stephen Kaufman, Angela Bodino, while being critical of casteism, conclude that modern India does not practice any "apartheid" since there is no state sanctioned discrimination.[28] They write that Casteism in India is presently "not apartheid. In fact, untouchables, as well as tribal people and members of the lowest castes in India benefit from broad affirmative action programmes and are enjoying greater political power."

In the Indian caste system, a Dalit, often called an untouchable is a person who lay outside the Indian Caste System. Historically, Hindu Dalits were forbidden to worship in temples and Muslim Dalits forbidden in mosques. Dalits who converted to Christianity are frequently discriminated against by upper-caste Catholic priests and nuns. They were not allowed draw water from the same wells as those with caste, and they usually lived in segregated neighborhoods outside the main village. Additionally, Anti-Brahmanist racial sentiments have been expressed by extremist fringe groups among Dalit Nationalists. Caste Discrimination, while still being present in private life and in politics, has all but disappeared from urban public life.

## **United Kingdom**

There were race riots across the United Kingdom in 1919: South Shields, Glasgow, London's East End, Liverpool, Cardiff, Barry, and Newport. There were further riots by immigrant and minority populations in East London during the 1930s and Notting Hill in the 1950s.

In the 1980s, perceived societal racism, discrimination and poverty - alongside further perceptions of powerlessness and oppressive policing - sparked a series of riots in areas with substantial African-Caribbean populations.[92] These "uprisings" (as they were described by some in the community) took place in St Pauls in 1980, Brixton, Toxteth and Moss Side in 1981, St Pauls again in 1982, Notting Hill Gate in 1982, Toxteth in 1982, and Handsworth, Brixton and Tottenham in 1985.

The report identified both "racial discrimination" and a "racial disadvantage" in Britain, concluding that urgent action was needed to prevent these issues becoming an "endemic, ineradicable disease threatening the very survival of our society". The era saw an increase in attacks on Black people by white people. The Joint Campaign Against Racism committee reported that there had been more than 20,000 attacks on non-indigenous Britons including Britons of Asian origin during 1985.

More recently in 2001, there have been both the Bradford riots and the Oldham Riots. These riots have followed cases of perceived racism - either the public displays of racist sentiment (including crimes against members of ethnic minorities which were subsequently ignored by the authorities), or, as in the Brixton Riots, racial profiling and alleged harassment by the police

force. In 2005, there have been Birmingham riots between the Black British and British Asian communities, with the spark for the riot being an alleged gang rape of a teenage black girl by a group of Asian men.

The British Crime Survey reveals that in 2004, 87,000 people from black or minority ethnic communities said they had been a victim of a racially motivated crime. They had suffered 49,000 violent attacks, with 4,000 being wounded. At the same time 92,000 white people said they had also fallen victim of a racially motivated crime. The number of violent attacks against whites reached 77,000, while the number of white people who reported being wounded was five times the number of black and minority ethnic victims at 20,000. Most of the offenders (57%) in the racially motivated crimes identified in the British Crime Survey are not white. White victims said 82% of offenders were not white.

Racism in one form or another was widespread in Britain before the twentieth century, and during the 1900s particularly towards Jewish groups and immigrants from Eastern Europe. The British establishment even considered Irish people a separate and degenerate race until well into the 19th Century.

Since World War I, public expressions of white supremacy have been limited to far-right political parties such as the British Union of Fascists in the 1930s and the British National Front in the 1970s, whilst most mainstream politicians have publicly condemned all forms of racism. However, anecdotal evidence suggests that racism remains widespread, and some politicians and public figures have been accused of excusing or pandering to racist attitudes in the media, particularly with regard to immigration. There have been growing concerns in recent years about institutional racism in public and private bodies, and the tacit support this gives to crimes resulting from racism, such as the murder of Stephen Lawrence, Gavin Hopely and Ross Parker.

The Race Relations Act 1965 outlawed public discrimination, and established the Race Relations Board. Further Acts in 1968 and 1976 outlawed discrimination in employment, housing and social services, and replaced the Race Relations Board with Commission for Racial Equality. The Human Rights Act 1999 made organizations in Britain, including public authorities, subject to the European Convention on Human Rights. The Race Relations Act 2000 extends existing legislation for the public sector to the police force, and requires public authorities to promote equality.

There have been tensions over immigration since at least the early 1900s. These were originally engendered by hostility towards Jews and immigrants from Russia and Eastern Europe. Britain first began restricting immigration in 1905 and has also had very strong limits on immigration since the early 1960s. Legislation was particularly targeted at members of the Commonwealth of Nations, who had previously been able to migrate to the UK under the British Nationality Act 1948. Virtually all legal immigration.

except for those claiming refugee status, ended with the Immigration Act 1971; however, free movement for citizens of the European Union was later established by the Immigration Act 1988. Legislation in 1993, 1996 and 1999 gradually decreased the rights and benefits given to those claiming refugee status ("asylum seekers"). 582,000 people came to live in the UK from elsewhere in the world in 2004 according to the office of National Statistics.

Some commentators believe that a huge amount of racism, from within all communities, has been undocumented within the UK, adducing the many British cities whose populations have a clear racial divide. While these commentators believe that race relations have improved immensely over the last thirty years, they still believe that racial segregation remains an important but largely unaddressed problem, although research [32] has shown that ethnic segregation has reduced within England and Wales between the 1991 Census and 2001 Census.

The United Kingdom has been accused of "sleepwalking toward apartheid" by Trevor Phillips, chair of that country's Commission for Racial Equality. Phillips has said that Britain is fragmenting into isolated racial communities: "literal black holes into which no one goes without fear and trepidation and nobody escapes undamaged". Phillips believes that racial segregation in Britain is approaching that of the United States. "You can get to the point as they have in the U.S. where things are so divided that there is no turning back."

The BBC has reported that the latest crime statistics appear to support Phillips' concerns. They show that race-hate crimes increased by almost 600 per cent in London in the month after the July 7 bomb attacks, with 269 more offenses allegedly "motivated by religious hatred" reported to the Metropolitan Police, compared to the same period last year.

In 2007 racist remarks made by contestants on the Celebrity Big Brother TV series against Bollywood actress Shilpa Shetty caused widespread outrage, not least in the UK with the British public phoning in to make Shetty the series winner and the other ethnic minority contestant Jermaine Jackson the runner up. Demonstrators in Bangalore burned effigies of the TV Channel's directors.

*(Wikipedia: Racism by Country.  
[http://en.wikipedia.org/wiki/Racism\\_by\\_country](http://en.wikipedia.org/wiki/Racism_by_country). [30.10.2007])*

# **Gender Discrimination**

## ***Sex Discrimination act (UK) – general overview***

The Sex Discrimination Act 1975, makes it unlawful for an individual to be discriminated against in the workplace, in relation to selection for a job, training, promotion, work practices, dismissal or any other disadvantage such as sexual harassment.

The Act also outlaws discrimination in the areas of education and the supply of goods and services. This booklet is solely concerned with employment. It is intended as a brief summary of the law in this area.

Areas covered in act: employment (including discrimination of applicants as well as discrimination in duration of the employment, pregnancy discrimination, harassment, discrimination based on sex reassignment), education, access to services, housing; also claiming the violations and compensations.

*(Thompson's law: Sex Discrimination.*

*<http://www.thompsons.law.co.uk/ltext/l0840001.htm>. [30.10.2007])*

## ***Sex Discrimination in Employment and Training***

### **Employment**

It is unlawful for an employer to discriminate against you on the grounds of your sex in any of the following ways:

- Refusing to consider you for employment.
- Refusing to offer you employment.
- Offering you employment on less favourable terms.
- Refusing to make provision for you to be trained, or treating you less favourably in providing access to training.
- Refusing to promote you or transfer you to another job, or treating you less favourably in providing access to promotion or transfer.
- Giving you less favourable employment benefits.
- Dismissing you or causing you any other detriment.
- Subjecting you to harassment.

It is not unlawful discrimination under the SDA to pay women less than men or to discriminate against women in the provision of contractual benefits classified as pay (e.g. occupational pensions). This is because it is covered by the Equal Pay Act (see Rights of Workers – Equal Pay).

Employment is defined as work under a contract of service or apprenticeship, or a contract personally to do any work. Therefore it includes employees, those defined as 'workers' and even some self-employed people. There is protection for contract workers and those who work for employment agencies. There are also special provisions in relation to office-holders, police officers, barristers and advocates, partnerships, those undergoing vocational training, and a range of other situations.

An employer is liable for any unlawful discriminatory acts (other than criminal acts) committed by his/her employees in the course of their employment, regardless of whether it was done with the employer's knowledge or approval. The employer may also be liable for unlawful acts committed by an employee outside the course of their employment if the employee was acting on express or implied authority. However, in general, an employer will not be liable for the acts of a third party such as sexist abuse by a customer or client, unless the failure to prevent that abuse was itself on discriminatory grounds. Anyone who knowingly aids another's unlawfully discriminatory act is also liable.

An employer can avoid liability for unlawful acts committed by employees if the employer can show that he or she took reasonable steps to prevent that employee from acting unlawfully. Reasonable steps would include things such as the development and publication of equal opportunities policies and the provision of staff training on these policies. Where the employer is able to show that he took reasonable steps and should not be liable, the employee may still be personally liable.

Protection extends to post-employment discrimination if such discrimination, which includes subjecting the person to a detriment or to harassment, 'arises out of and is closely connected to the relationship'. One example of this type of discrimination is where an employer refuses to give a reference to a former employee.

## **Vocational Training**

It is unlawful for the provider of vocational training to discriminate against a person on grounds of sex in any of the following ways:

- Restricting access to training.
- Offering training on terms less favourable than for other people.
- Terminating the training.
- Subjecting that person to any other detriment or harassment.

## **Defences and Exceptions**

The SDA provides an exception where the sex of the employee is a genuine occupational qualification. This allows an employer to refuse to consider an

application or offer employment on the basis of the sex of candidate, or to discriminate in the way that training, promotion and transfer opportunities are provided. However the exception does not allow the offer of employment to be on less favourable terms or dismissal or subjection to some other form of detriment because of the sex of the employee. Nor does it provide a defence to harassment.

The sex of the employee is only capable of being a genuine occupational qualification in certain restricted circumstances, these include:

- Jobs which rely on a particular sex for their physiology (with the exception of physical strength or stamina) e.g. male or female models, or for authenticity e.g. actors.
- Jobs involving physical contact or issues of decency and privacy (e.g. care assistants or toilet attendants).
- Where the job involves living or doing work in a private home, and physical or social contact or intimacy is involved (e.g. live in nanny, carer).
- Jobs in single sex establishments such as hospitals, prisons, or care homes, where it is reasonable for the job to be held by a particular sex.
- Jobs involving provision of personal educational or welfare services to vulnerable persons (e.g. rape counselling, but this provision does not normally apply to teachers in single sex schools).
- Jobs requiring persons to live-in, where it would not be reasonable to require the employer to provide separate accommodation or facilities (e.g. ships, submarines)

This defence applies even if only a part of the job falls within the genuine occupational qualification exception. However it does not apply if, in relation to filling a vacancy, other persons already employed could reasonably be required to carry out any duties falling within any exception.

### ***Sex Discrimination in Education***

The Sex Discrimination Act 1975 ('SDA') makes it unlawful for educational establishments to directly or indirectly discriminate on grounds of sex, (or victimise), in any of the following areas:

- Admissions policies.
- Access to classes, courses or other benefits, facilities or services provided by the school or college.
- Exclusions or any other unfavourable treatment.
- Local authorities are also under a general duty to ensure that educational facilities and ancillary benefits or services are provided without sex discrimination.

The following bodies can be held responsible for discrimination under the SDA:

- All schools, colleges and other educational establishments maintained by Local Education Authorities. Depending on the circumstances of the case, the Local Education Authority itself and/or the governors of the institution can be held responsible. Governors can be held responsible individually or collectively.
- Independent or private schools. The proprietors would be responsible.
- Universities and other higher education institutes. The governing body would be responsible.
- Other establishments designated by the Secretary of State for Education. These include other establishments in receipt of grants (such as grant-maintained schools) from central government or the local authority. The governing body in each case is responsible for any discrimination.
- The SDA allows educational trusts to change their terms, with consent from the Secretary of State for Education, in order to apply their benefits to both sexes.

## **Exceptions**

There are a limited number of exceptions to the general requirement of non-discrimination in education. These are as follows:

- Single-sex schools and colleges. A single-sex institution planning to turn co-educational can apply for permission to discriminate by admitting more members of one sex for a limited period.
- Co-educational schools which provide boarding accommodation for one sex only may continue to do so. If accommodation is provided for both sexes, it must be equal though it may be separate.
- Education provided by charities set up to benefit one sex only.
- In sport, single-sex competitive sport is allowed 'where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man'. In practice, this has often been used to exclude girls from certain sports at school.
- The SDA allows single-sex schools, but also places a general duty on local education authorities to provide education without sex discrimination. This might mean, for example, that although a single-sex girls' school may not offer a design and technology course through its own curriculum, the Local Education Authority has to ensure that if boys in the same area have the opportunity to study this subject, arrangements are made to enable girls to take it, perhaps by attending a nearby mixed school for those lessons.

There is no express provision prohibiting harassment in the provision of primary or secondary education, however it would be possible to argue that such treatment constitutes direct discrimination. An express provision prohibiting harassment is due to come into force by 21 December 2007. There is already an express provision prohibiting harassment by colleges and universities of students or potential students.

## ***Sex Discrimination in Goods, Facilities and Services***

The SDA 1975 ('SDA') makes it unlawful for a person providing goods, facilities or services to members of the public to directly or indirectly discriminate (or victimise) on the grounds of sex in the provision of such goods, facilities or services. This is regardless of whether or not the goods, facilities or services are provided free of charge. This covers a wide range of public and private services, including pubs, cafes, restaurants, hotels, transport, banking, insurance, hire purchase, recreation and entertainment.

There is no express provision prohibiting harassment in the provision of goods, facilities and services, however it would be possible to argue that such treatment constituted direct discrimination. An express provision prohibiting harassment is due to come into force by 21 December 2007.

### **Exceptions**

The list of exceptions to this part of the SDA, however, is just about as long as the list of situations it does cover. The exceptions are:

- Currently private clubs, such as working-men's clubs and sports clubs. It is arguable that the exclusion of these clubs from the provisions of the Sex Discrimination Act could now be subject to challenge under human rights legislation.
- Political parties. Women's sections and conferences are still lawful.
- Religious bodies may continue to discriminate if necessary because of their doctrine or because not to do so would offend 'a significant number' of its members.
- Hospitals, prisons, hostels, old people's homes and any other place for people needing 'special care'.
- Competitive sport, if an average woman would be at a disadvantage because of her physical capacity compared to the average man.
- Charities and non-profit-making organisations set up to provide facilities or services for one sex only. This does not mean such organisations may discriminate across the board - for example, by restricting their office workers to one sex only - but they may discriminate in the provision of services, including who is employed in actually providing those services.
- Communal facilities or services which need to be restricted to one sex where users are likely to suffer 'serious embarrassment' at the presence of the opposite sex or the users are likely to be in a state of undress. This covers toilets, saunas, changing rooms, and so on.
- Services involving physical contact, where it may be reasonable to object if the other person was of the opposite sex. For example self-defence classes.

- Services which require a particular skill which is exercised differently for men than for women may in certain circumstances be restricted to one sex only, e.g. hairdressing and tailoring.
- Insurance companies and similar bodies. These may discriminate in relation to the provision of an annuity, life assurance policy, accident insurance policy or similar matter involving an assessment of risk where such discrimination is based on actuarial or other data on which it is reasonable to rely. For example, women can be offered cheaper car insurance than men because statistics show they are safer drivers.

### ***Sex Discrimination in Housing***

The SDA 1975 ('SDA') makes it unlawful to directly or indirectly discriminate on grounds of sex (or victimise) in the renting, allocation, management, sub-letting or selling of accommodation. This provision includes accommodation provided by hotels and holiday lets.

There is no express provision prohibiting harassment in the provision of goods, facilities and services, however it would be possible to argue that such treatment constituted direct discrimination. An express provision prohibiting harassment is due to come into force by 21 December 2007.

### **Exceptions**

This provision does not apply to:

- A person selling a property which he occupies unless that person uses the services of an estate agent or advertises the sale of the property.
- Small properties where the owner or relative lives on the premises and shares part of the accommodation.
- Charities and non-profit-making organisations which provide accommodation for one sex only. This would exempt single-sex provision by a housing association.
- Communal accommodation such as dormitories or other shared sleeping accommodation can be restricted to one sex for reasons of 'privacy or decency' or because of the nature of the sanitary facilities serving that accommodation. This defence will only apply if it is reasonable for such accommodation to be single sex and no alternative can be provided.

## ***Sex Discrimination and Public Bodies***

Under the Sex Discrimination Act 1975 ('SDA'), it is now unlawful for public authorities to discriminate on grounds of sex and public authorities are under a positive duty to ensure gender equality when carrying out their functions. These provisions, introduced by the Equalities Act 2004, came into force on the 6 April 2007.

The definition of 'public authority' includes any person who has a function of a public nature. Therefore it includes local authorities, government departments, schools, colleges and universities, NHS, other public funded bodies. It may also include private and voluntary organisations carrying out a public function on behalf of a public authority.

### **Discrimination by public authorities**

The SDA makes it unlawful for a public authority to directly or indirectly discriminate (or victimise) or commit acts of harassment on grounds of sex. This provision is similar to an equivalent provision in race and disability legislation.

This prohibition is subject to a limited number of exemptions, such as the provision of single sex services where such service if required, for example women's refuges. It also exempts action taken for the purpose of assisting one sex to overcome disadvantage or the effects of discrimination.

A person who believes that he / she has been discriminated against by a public authority may bring County Court proceedings.

### **Gender Equality Duty**

According to the Equal Opportunities Commission ('EOC') the gender equality duty imposed on public authorities is the most significant change to gender equality legislation in 30 years since the introduction of the SDA. The EOC has issued a Gender Equality Duty Code of Practice which includes guidance as to how public authorities are to meet this duty.

The SDA imposes a general statutory duty on public authorities to have 'due regard' when exercising their functions to the need to eliminate unlawful direct or indirect discrimination (or victimisation) and harassment and promote equality of opportunity between men and women. This provision is similar to equivalent provisions in race and disability legislation. It will require public authorities to take a proactive approach to meeting the duty.

The SDA further provides a power for specific duties to be imposed upon specified bodies to whom the general duty applies. The Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006, imposes specific gender equality duties on selected public authorities including government

departments, regulatory bodies, educational bodies, police authorities and the national health service. The specific duties include:

To prepare and publish a gender equalities scheme by 30 April 2007, setting out how the public authority will meet its gender equality duties.

The scheme to set gender equality objectives including addressing the causes of any gender pay gap.

The scheme to include an action plan involving consulting employees, service users and others, gathering and using information, conducting a gender impact assessment of its policies and practices, and setting out measures to achieve the fulfilment of the scheme's objectives.

The scheme's objectives and any action plan to be implemented within three years.

The gender equalities scheme to be reviewed and revised every three years

To publish annual progress reports.

Only the EOC and, from Oct 2007, the Commission for Equality and Human Rights, can bring action to enforce these duties.

*(Your rights: Sex Discrimination. <http://www.yourrights.org.uk/your-rights/chapters/right-to-recvie-equal-treatment/sex-discrimination/sex-discrimination.shtml>. [30.10.2007])*

### ***Legal cases on sex discrimination (US)***

#### **Underwood v. Perry County Commission, 11th Circuit**

A woman sued for sex discrimination because she was not hired as a truck driver for the county. Her case was dismissed after speeding tickets were discovered that made her unqualified for the position.

#### **Cannon v. St. Paul Fire and Marine Ins. Co., N.D. Tex**

A manager claimed age and gender discrimination after being assigned to a performance improvement plan. The Court found that the manager "cannot succeed on his claim of discrimination with respect to the Performance Improvement Plan because being required successfully to complete a plan is not an adverse employment action as a matter of law."

#### **Jackson v. Birmingham Board of Education**

A girl's basketball coach fired after complaining that the boys received better equipment and practice facilities is protected from retaliation by Title IX.

## **Jespersen v. Harrah's Operating Co. 9th Cir.**

Harrah's Casino required female bartenders to wear makeup. Male bartenders were prohibited from wearing makeup. The Ninth Circuit found that this rule was not discriminatory because the Casino's personal appearance policy did not impose an unequal burden on woman.

*(EEO News: Sex Discrimination Cases Headlines.  
<http://www.eeonews.com/news/sexdiscrim/index.html>. [30.10.2007])*

### **Other articles**

20 November 2001 - The Equal Opportunities Commission (EOC) has announced that a vehicle technician whose employer refused to let him work part-time so he could help look after his son has won his sex discrimination case against a former employer.

Neil Walkingshaw had worked full-time for the John Martin Group in East Lothian for over eight years when his son was born. Mrs Walkingshaw was also a full-time worker. During her maternity leave the couple decided that Mr Walkingshaw should be the one to go part-time at the end of her maternity leave.

But when Mr Walkingshaw discussed this with his managers he was told that the proposal was 'too messy'. He considered that they had dismissed his idea without really considering it - despite allowing four women workers in the same company to reduce their hours after having children. He handed in his resignation shortly afterwards.

Julie Mellor, Chair of the Equal Opportunities Commission (EOC), said:

"Mr Walkingshaw's employers lost a skilled employee who had been with them for several years, simply because they didn't look at his request to work part-time properly. A genuine discussion about the practicalities of dealing with the changes he wanted might have helped them find a solution that suited them and him.

"I very much hope that the recommendations of the Work and Parents Taskforce, announced today, which include a code of practice to help employers deal with this kind of request, will mean that cases like this are less likely to end up before a tribunal in future. All working parents deserve a chance to balance their work with their family life, and the best employers have already recognised that this can benefit their business as well."

Mr Walkingshaw said:

"My wife and I had decided that the best way for us to manage looking after our son was for her to carry on working-full-time and for me to go part-time, so I had hoped that my employer would at least consider my suggestion.

"I'm delighted with the tribunal's decision as I really didn't think it was fair that I was treated so differently from the women in my company who had asked for part-time work. I think that if more parents could change their hours it would make for a better life for a lot of families."

Finding that Mr Walkingshaw had been discriminated against because of his sex, the tribunal awarded him £3,700 compensation. It concluded that Mr Walkingshaw's employers 'gave no meaningful consideration' to his request and that they would probably have agreed to a similar request from a woman.

*(HRM Guide. [http://www.hrmguide.co.uk/diversity/male\\_mechanic.htm](http://www.hrmguide.co.uk/diversity/male_mechanic.htm).  
[30.10.2007])*

A woman who was made redundant while on maternity leave has lost her case for sexual discrimination against a City firm. The ruling bucks the recent trend of awards against City firms and could discourage some future cases.

Andrea Madarassy worked for Nomura International as an equities banker but was made redundant in 2001 while on maternity leave. She made a £1 million sex discrimination claim.

The Court of Appeal ruled in the case, which was itself appealed from the Employment Appeals Tribunal, and found that Madarassy had not met the burden of proof required to show that she was discriminated against because of her sex.

The burden of proof in a sex discrimination claim is complicated, and it shifts from one party to another. In his ruling Lord Justice Mummery admitted that there is "an air of unreality about all of this", but that Madarassy had not managed to shift the burden of proof to Nomura.

The person bringing the case must prove that they were treated differently by an employer, and that that treatment could have been as a result of sexual discrimination. If they do, the employer must then prove that it did not discriminate on grounds of sex, which is notoriously hard to do.

Madarassy's case was crucial in that she was said to have proved that she was treated differently to others, but did not prove that that different treatment could have been the result of sexual discrimination. The judge's analysis could end there, since Nomura did not have to prove anything because Madarassy had not proved that there was a case to answer.

"This will stop claimants' lawyers running away with the notion that all they have to do is prove a difference in treatment," said Jonathan Coley, an employment specialist with Pinsent Masons, the law firm behind OUT-LAW.COM.

"It's a reinforcement of existing principles and it confirms that it is not simply a question of the burden of proof shifting once an individual has

shown a difference of treatment," said Coley. "It is helpful to employers in that sense."

"The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination," said Mummery in his ruling. "They are not, without more, sufficient material from which a tribunal 'could conclude' that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination."

The court backed the decision of the Employment Appeals Tribunal dismissing Madarassy's claim.

The decision follows a number of high profile cases involving City firms. Helen Green was awarded £800,000 from her employer Deutsche Bank after her claim of bullying and harassment at work was backed by the courts.

*(Out Law. <http://www.out-law.com/page-7720>. [30.10.2007])*

### **Don't let culture be an excuse for demeaning women**

Across the world, it is women who are driving economic growth. Over the last 30 years, they have filled two out of every three new jobs. The term 'womenomics' has been coined to illustrate the increasing role that women are now playing, and will continue to play, in economic life.

It certainly represents what's happening in Tanzania, where I have been meeting African businesswomen. The popular saying - 'the African farmer and her husband' - shows there is nothing new in the essential, if hidden, role of women in the economy. But with so many women setting up their own businesses, the motto needs updating to 'the African entrepreneur and her mobile'.

All this could lead people to believe that the fight for women's rights, although not won, should be subsumed into the bigger battle for human rights for everyone. After all, the denial of human rights hits both men and women.

But while both sexes suffer, it's still women who suffer most. Two out of three children denied education are girls. Women own just 1 per cent of the world's titled land, a fact that makes it very difficult for women entrepreneurs to get bank loans, because they have no collateral. Even in the UK, where there has been huge progress, women in full-time work still take home 83p for every pound that men get paid and the glass ceiling at the top is as unbreakable as ever.

And, importantly, these barriers and discrimination are not an accidental byproduct of gender. They exist simply because of it.

They rest on the idea, spoken or unspoken, that women are somehow not the equal of men, that their rights, views and interests don't carry the same weight. It is this assumption that underpins and links the pay gap in developed countries, the denial in some developing countries of a woman's right to own property, the practice of abortion or infanticide because the child is a girl, and that allows rape or honour killings to go unpunished. It is the belief that women are worth less than men.

There are those who, while appalled at such prejudice in our societies, attempt to excuse it elsewhere as a result of different cultures. They argue that it is wrong to impose our standards across the world, casting doubt on the concept of universal human rights in a world of diverse cultural and religious standards.

I believe this is both wrong and patronising. As Rosalyn Higgins, the first female judge on the International Court of Justice, noted, it's an argument advanced by states or by liberal scholars but rarely by the oppressed groups themselves. It's often based, too, on a false belief that the idea of universal human rights, and the UN declaration that made them concrete, is a construct of a few Western democracies foisted on a reluctant world.

The declaration was drafted, in fact, by experts from every background and improved by contributions from all the UN's founding members from across the world. It was an express statement that the same human rights belong to each and every one of us, whatever our race, gender, religion or background.

They are a recognition of our essential dignity as human beings, something that, I would argue, has its roots deep in all our great faiths. As such, they can't be ignored or watered down simply because of claims of cultural difference.

Of course, culture doesn't stay the same. It is changed by law, by education and campaigning. Look at the seriousness with which our society now treats domestic violence. When I first started practising as a barrister 30 years ago, it was still very much a hidden crime. If reported to the police or courts at all, attacks by a husband on his wife were routinely treated as less serious than an assault on a stranger.

Now such cowardly behaviour is rightly seen as an aggravated offence. In the Middle East, too, the culture is slowly changing. Across the Gulf, women, with the support of men, are winning the right to vote and are increasingly filling important ministerial positions. They are also taking a bigger role in the economy.

In Tanzania and across the developing world, innovative credit schemes are springing up to tackle the reluctance of the banks to lend to women despite their better record of repaying loans than men. In Bangladesh, micro-credit schemes are also educating women about their rights and training women in

the fundamentals of the Muslim law of property to help them argue their case. Economic empowerment and education are making a difference.

This is not the time to retreat from the fight for women's equality. It's the time, with sensitivity but also firmness, to step it up wherever we find prejudice. The prize is not just a better world for women. It is a better world for all.

*(Guardian Unlimited.*

*<http://www.guardian.co.uk/commentisfree/story/0,,2200626,00.html>*

*{30.10.2007})*

## **Discrimination based on age**

Age discrimination is discrimination against a person or a group on the grounds of age. Although theoretically the word can refer to the discrimination against any age group, age discrimination usually comes in one of three forms: discrimination against youth, which is also called 'adults'; discrimination against those 40 years old or older [3], and; discrimination against elderly people. In the United States, the Age Discrimination in Employment Act prohibits employment discrimination nationwide based on age with respect to employees 40 years of age or older. The Age Discrimination in Employment Act also addresses the difficulty older workers face in obtaining new employment after being displaced from their jobs, arbitrary age limits.

In many countries, companies more or less openly refuse to hire people above a certain age despite the increasing lifespan and average age of the population. The reasons for this range from vague feelings that younger people are more "dynamic" and create a positive image for the company, to more concrete concerns about regulations granting older employees higher salaries or other benefits without these expenses being fully justified by an older employees' greater experience.

Some people consider that teenagers and youth (around 15-25 years old) are victims of adults, age discrimination framed as a paternalistic form of protection. In seeking social justice, they feel that it is necessary to remove the use of a false moral agenda in order to achieve agency and empowerment. This perspective is based on the grounds that youth should be treated more respectfully by adults and not as second-class citizens. Some suggest that social stratification in age groups causes outsiders to incorrectly stereotype and generalize the group, for instance that all adolescents are equally immature, violent or rebellious, listen to rock tunes and do drugs. Some have organized groups against age discrimination.

Ageism is the causal effect of a continuum of fears related to age. [Citation needed] This continuum includes:

Pedi phobia: the fear of infants or small children.

Ephebiphobia: the fear of youth.

Gerontophobia: the fear of elderly people.

Related terms include:

Adultism: Also called adultarchy, adult privilege, and adultcentrism/adultocentrism, this is the wielding of authority over young people and the preference of adults before children and youth.

Jeunism: Also called "youthism" is the holding of beliefs or actions taken that preference "younger" people before adults.

## ***Employment***

### **Discrimination against younger workers**

Like race and gender discrimination, age discrimination, at least when it affects younger workers, can result in unequal pay for equal work. Unlike race and gender discrimination, age discrimination in wages is often enshrined in law. For example, in both the United States<sup>[8]</sup> and the United Kingdom minimum wage laws allow for employers to pay lower wages to young workers. Many state and local minimum wage laws mirror such an age-based tiered minimum wage. Outside of the law, older workers, on average, make more than younger workers do. Firms may be afraid to offer older workers lower wages than younger workers.

Labor regulations also limit the age at which people are allowed to work and how many hours and under what conditions they may work. In the United States a person must generally be at least 14 years old to seek a job, and workers face additional restrictions on their work activities until age 16. Many companies refuse to hire workers under 18.

### **Discrimination against older workers**

While older workers benefit from higher wages than younger workers, they face barriers in promotions and hiring. They may also encourage early retirement or lay off disproportionately older/more experienced workers.

Age discrimination in hiring has been shown to exist in the United States. Joanna Lahey, Economics professor at Texas A&M, found that firms are more than 40% more likely to interview a younger job applicant than an older job applicant.

In a survey for the University of Kent, England, 29% of respondents stated that they had suffered from age discrimination. This is a higher proportion than for gender or race discrimination. Dominic Abrams, Social Psychology

professor at the University, concluded that ageism is the most pervasive form of prejudice experienced in the UK population.

### **Government responses**

In the US, each state may have its own laws regarding age discrimination. In California, the California Fair Employment and Housing Act prohibits discrimination against persons over the age of 40. The FEHA is the principal California statute prohibiting employment discrimination, covering employers, labor organizations, employment agencies, apprenticeship programs and/or any person or entity who aids, abets, incites, compels, or coerces the doing of a discriminatory act. In addition to age, it prohibits employment discrimination based on race or color; religion; national origin or ancestry, physical disability; mental disability or medical condition; marital status; sex or sexual orientation; and pregnancy, childbirth, or related medical conditions.

The federal government governs age discrimination under the Age Discrimination in Employment Act of 1967 (ADEA). The ADEA prohibits employment discrimination based on age with respect to employees 40 years of age or older as well. The ADEA also addresses the difficulty older workers face in obtaining new employment after being displaced from their jobs, arbitrary age limits. The ADEA applies even if some of the minimum 20 employees are overseas and working for a US corporation.

The United States federal government has responded to issues of ageism in governance through several measures in the past. They include the creation of the 1970s-era National Commission on Resources for Youth, which was created in the late 1960s as to promote youth participation throughout communities. Recently the federal government implemented the Tom Osborne Federal Youth Coordination Act, aiming to curb redundancy among federal service providers to youth.

Other countries that have laws addressing ageism include Australia, Denmark, Ireland, and the United Kingdom.

### **Advocacy campaigns**

Many current and historical intergenerational and youth programs have been created to address the issue of ageism. Among the advocacy organizations created in the United Kingdom to challenge age discrimination are Age Concern, the British Youth Council and Help the Aged.

In the United States there have been several historic and current efforts to challenge ageism. The earliest example may be the Newsboys Strike of 1899, which fought ageist employment practices targeted against youth by large newspaper syndicates in the Northeast. During the Franklin D. Roosevelt Administration, First Lady Eleanor Roosevelt was active in the national

youth movement, including the formation of the National Youth Administration and the defense of the American Youth Congress. She made several statements on behalf of youth and against ageism. In one report entitled, "Facing the Problems of Youth," Roosevelt said of youth,

"We cannot simply expect them to say, 'Our older people have had experience and they have proved to themselves certain things, therefore they are right.' That isn't the way the best kind of young people think. They want to experience for themselves. I find they are perfectly willing to talk to older people, but they don't want to talk to older people who are shocked by their ideas, nor do they want to talk to older people who are not realistic." [16]

Students for a Democratic Society formed in 1960 to promote democratic opportunities for all people regardless of age, and the Gray Panthers was formed in the early 1970s with a goal of eliminating ageism in all forms. [17] Three O'Clock Lobby formed in 1976 to promote youth participation throughout traditionally ageist government structures in Michigan, while Youth Liberation of Ann Arbor started in 1970 to promote youth and fight ageism.

More recent U.S. programs include Americans for a Society Free from Age Restrictions, which formed in 1996 to advance the civil and human rights of young people through eliminating ageist laws targeted against young people, and to help youth counter ageism in America. [18] The National Youth Rights Association started in 1998 to promote awareness of the legal and human rights of young people in the United States. [19], and the Freechild Project was formed in 2001 to identify, unify and promote diverse opportunities for youth engagement in social change by fighting ageism.

### **Related campaigns**

In 2002 the Writers Guild of America West has waged a legal battle within the entertainment industry to eliminate age discrimination commonly faced by elder scriptwriters. [citation needed]

Director Paul Weitz reported he wrote the 2004 film, *In Good Company* to reveal how ageism affects youth and adults.]

In 2002 The Freechild Project created an information and training initiative to provide resources to youth organizations and schools focused on youth rights.

### **Accusations of ageism**

In a recent interview, famed actor Pierce Brosnan cited ageism as one of the contributing factors as to why he was not cast as James Bond in the Bond film *Casino Royale*, released in 2006.

*(Wikipedia: Discrimination. <http://en.wikipedia.org/wiki/Discrimination>. [30.10.2007])*

If you are 40 years of age or older, and you have been harmed by a decision affecting your employment, you may have suffered unlawful age discrimination. The Age Discrimination in Employment Act (ADEA) is a federal law that protects individuals 40 years of age or older from employment discrimination based on age. Here are some examples of potentially unlawful age discrimination:

- You didn't get hired because the employer wanted a younger-looking person to do the job.
- You received a negative job evaluation because you weren't "flexible" in taking on new projects.
- You were fired because your boss wanted to keep younger workers who are paid less.
- You were turned down for a promotion, which went to someone younger hired from outside the company, because the boss says the company "needs new blood."
- When company layoffs are announced, most of the persons laid off were older, while younger workers with less seniority and less on-the-job experience were kept on.
- Before you were fired, your supervisor made age-related remarks about you, such as that you were "over-the-hill," or "ancient."

*(Workplace Fairness: Age discrimination.*

*<http://www.workplacefairness.org/age?agree=yes#1>. [30.10.2007])*

## ***Other articles***

### **The way we treat the old is both disgraceful and stupid**

The idea that Menzies Campbell was fair game for abuse because he was in his 60s is a product of pernicious prejudice

Jackie Ashley

It's the one issue he could never have campaigned about. Sir Menzies Campbell's age was used against him in a way that one day will seem barbarous. The cartoons of toothless, withered, hunched old Ming hobbling about with his Zimmer frame, and the Commons jokes about him being hard-of-hearing and over-the-hill, were cruel. Well, politics can be cruel. But imagine the outcry if the cartoonists had gone after someone for being black, disabled or gay in the same way - anything, really but for the crime of being in his 60s?

It took the youngest MP in the House of Commons, Jo Swinson, who's just 27, to point out that the abuse Ming suffered "wouldn't be tolerated on the basis of gender, race or disability, but when it comes to age it's fair game". She's right. Imagine how you would feel if you opened the paper and found a black television star being drawn with a bone through his nose and an assegai in one hand? Or witty columnar references to a blind man needing a white stick to find his way round some issue or other; or heard that an openly gay MP faced shouts of "Where's your handbag, ducky?" when he

stood up in the Commons? I assume you would be repelled, surprised, disgusted. And rightly so.

However much it's sneered at, "political correctness"- plus anti-discrimination legislation - has softened some of the rougher edges of modern life. In a complicated, many-coloured, multi-religion society, which believes in doing something to redress general imbalances of power, old prejudices are constantly challenged and changing. People have the right not to be refused work because of the colour of their skin, or the faith they were born into; people using wheelchairs expect to be able to use buses and restaurants and loos; people born gay demand to be treated with respect. Yet all these expectations and social rights are quite new. In 1950s Britain, they would have seemed, in varying degrees, a bit odd, a bit pushy.

One day the last great discrimination will go too. Yet for now, it remains absolutely fine, apparently, to discriminate against someone on the basis of their age. You can mock the old, push the old to one side, insist that the old retire from useful work, and in this hurrying, imperious, self-regarding youth-cult culture, that's completely acceptable. Everyone who works in the media knows how much pressure there is to keep wrinkly faces and grey hair tucked away from readers or viewers or, most important, advertisers.

At its most extreme, our irritable disdain for older people helps produce the cruelty and abuse found in some care homes, and hospitals. Caring for the old is a poverty-wages, bottom-rung trade. Yes, there are heroines and heroes in it, but there are also angry, resentful people who feel unvalued and pass on their anger to their helpless charges. It should be no surprise that Britain's most deadly serial killer by far was Harold Shipman. If they're old ladies, nobody cares. But even at a far less extreme level, the youth obsession of the mass media and the poverty of so many pensioners are irrefutable signs of a society prepared to look away.

It's very odd, though, isn't it? Because if we are lucky, we will all be old. We won't all be Asian or lesbian or lose the use of our legs, but we will be old. This is a discrimination almost every one of us will feel. Perhaps ageism is the desperate cry of denial of the middle-aged majority. But as our whole society ages, it becomes an increasingly silly and futile cry. And to many cultures, notably Asian ones, the notion that a 60-something is not fit to be listened to, or seen as a leader, while a 30-something, lacking those decades of experience, is, would seem completely barking.

The issue is hard-edged. A recent Age Concern consultation found more adults (29%) complaining of age discrimination than any other kind. Numerous surveys of attitudes to older people tell a bleakly coherent story. In the same consultation, one-third of people responding said they viewed the over-70s as incompetent and incapable. The Department of Health itself admits that there are deep-rooted negative attitudes to old people, and that these are at the heart of failures to provide better services.

Statistics are one thing. But this adds up to hungry old people having their food taken away before they can finish it; to rudeness and patronising attitudes to older patients; to people being left in cold, stinking, soiled beds; to people over 65 being less likely to be referred to cardiologists; to older women not getting the kind of breast cancer service younger ones take for granted. Over the next decade, the number of over-65s will go up by 15%. If you push ahead to 2040, more than one-third of the population will be over 60. We simply won't be able to manage if people are not allowed to work past 65, or are refused even voluntary work because of the insurance costs, or are not allowed to upgrade their skills. A health service that then treats old people as a problem, won't be any kind of health service at all. Yet the discrimination is in key ways getting worse, not better.

A few months ago the government published its proposals for a new single equality bill, bringing together the nine current pieces of legislation on gender, race, disability and so on, all in the same piece of legislation. But there's no sign yet that age discrimination will be treated as seriously as other types of discrimination. As one member of Age Concern puts it: "This government just isn't as serious about age discrimination as it is about other areas of equality law." The government's green paper admits that ageist attitudes are "deeply entrenched", covering healthcare of all kinds, employment law, housing, banking, insurance and much else. Yet only by applying the kind of missionary zeal the government has brought to other inequalities can these attitudes be changed.

There is no excuse for fudging or delay. To expect to live to a ripe old age is our scientifically enhanced, rich-world fate. It is, as almost everyone says, better than the alternative. But we have to start to adjust to that. We need to be a country in which people who feel fit can keep working, and keep paying tax; and where those who suffer the ailments of age are treated with respect by others.

Then, one day, we might stop sneering at, and patronising, the multitude of older Britons all around us. It is not polite. But more important still, since we are all on the way to join them, it is rather short-sighted, I'd say. Ming was dumped because his party thought he was the past. The truth is, of course, he's all of our futures.

*(The Guardian.*

*[http://www.guardian.co.uk/comment/story/0,,2196334,00.html#article\\_continue](http://www.guardian.co.uk/comment/story/0,,2196334,00.html#article_continue). [30.10.2007])*

## **Discrimination based on sexual orientation**

### ***Discrimination based on sexual orientation (Sana Koskinen)***

#### **Sexuality and rights**

Sexuality, identity and social rights are very important things and they are related to each other very closely. For that reason we could ask on what grounds social rights are distributed? What is the full citizenship? Diane Richardson for example argues in her article "Sexuality and Citizenship" (1998) that a good citizen is white male, heterosexual, who live in middle-class marriage.

What are then social rights? T.H. Marshall (1950) has divided rights of citizens into civil, political and social rights. Civil rights came first, in the 18th century and they include things such as the right to own property, freedom of speech and thought and so on. Next came political rights, in the 19th century, for example general and uniform/ common electoral rights. Social rights came last, just in this century. The right to a certain level of economic welfare and security are for example social rights. Social rights are welfare states rights.

According to T.H. Marshall rights and duties, which belong to all citizens, require certain kind of society; society without hierarchies. Is today's society free from all hierarchies? Hierarchies are formed differently in different times. Today when there is claims that class boundaries do not exist anymore, we could think that one of the main principle of hierarchies is sexuality.

Now we are discussing on what grounds social rights are distributed and why lesbians and gay men are sometimes excluded from these rights. But even that is not automatically clear that lesbians and gay men have access to all civil and political rights. For example Diane Richardson (Sexuality and citizenship 1998) has studied lesbians' and gay men's rights related to T.H. Marshall's citizenship theory.

#### **Lisa Grant's case**

Next I will take as an example of exclusion from social rights case of Lisa Grant. She works at South West Trains in England. Lisa Grant is an employee of SWT and her contract of employment included entitlement to certain free and reduced rate travel concessions. Those concessions were also available to spouses and dependents of employee. The contract of employment rules that privilege tickets are granted for one common-law opposite sex spouse of staff if relationship has existed at least two years. In 1995, Lisa Grant (a booking clerk with SWT) applied for travel pass for Jill Percey, with whom she has lived together over two years, but SWT refused to

give it to Jill. She has been discriminated against at work because she is a lesbian.

Lisa Grant sued South West Trains in Industrial Tribunal in Southampton. The court decided that the case belonged in field of community law and EC-treaties and it sended the case to European court of justice to get prejudgement. How should Article 119 be interpreted? Industrial tribunal wanted to know, does discrimination based on sexual orientation mean (that lesbian couple did not get same benefits than hetero couple) discrimination based on sex, which is banned in Article 119. Is it against the law to discriminate against someone because of her sexual orientation? After European court of justice has solved the case, national court have to use European courts interpretation of the Article.

In England situation in worplaces is quite bad for lesbians and gay men. Employers are allowed to discriminate against people because of their sexual orientation, but not for example because of their sex . Employee can be dismissed because of her sexual orientation. Although many British employers have declared that they will give everyone same opportunities and prevent discrimination based also on sexual orientation, discrimination still happens and everyone does not have equal opportunities. Only London Underground and British Airways treat equally homo- and heterosexuals. I guess it is the same situation here in Finland. Although we have anti-discrimination laws in our constitution and in public we are very open-minded, it is still hard to get certain kinds of jobs if openly tell about sexual orientation. But it is illegal. Article 5 in our constitution, bans also discrimination based on sexual orientation. It is not said in actual article, but it is said in grounds of government's proposal.

Stonewall, gay and lesbian organisation in England, published in 1993 a book "Less Equal than Others". For the book had been interviewed by survey-technique over 2000 lesbians, gay men and bisexuals. According the survey were discrimination, harrashment and "living in the closet" the biggest problems in workplaces. 16 % of interviewed had been discriminated against because of their sexual orientation and 21 % believed that they had been discriminated against because of it. Almoust half of the interviewed said that they had been harassed at work because they were lesbians or gays. Social and Community Planning Research in England published in 1995 a study "Discrimination against Gay Men and Lesbians". According that 4 % of interviewed lost their jobs because of their sexual orientation and 8 % of them did not get promotion.

It is a fundamental right that a person can define her sexuality and act like she want. But still oppotunities to do so are quite bad in many countries. Generally there has been development in lesbians' and gay men's rights but because of many differencies we can not compare one country to the other. It also could be difficult to put European countries in priority order. While some countries discuss about homosexuals' parental rights, some other countries try to equalize age limits.

## **Lisa's case and Article 119 of EC Treaty**

In July in 1996 Great-Britain's national court Industrial tribunal took case Lisa Grant vs South West Trains (SWT) to European court of justice and referred several questions on the interpretation of Article 119 of the EC treaty and of the equal pay and equal treatment directives.

Article 119 prohibits discrimination based on sex. It says that men and women must get equal pay from same work. European court has regulated that employees pay includes travel concessions. According to earlier court's decision in case P vs S, it was against Article 119 and equal treatment directive to dismiss person because of transsexuality. We could think that if Article 119 banned discrimination of transsexuals, it would also ban discrimination based on sexual orientation. But is it the same? If some-one has been discriminated against on the grounds of her sex, is it the same, if some-one has been discriminated against on the grounds of her sexual orientation? Advocate general of European court has ruled in case P vs S that sex should be given a wider definition, which includes sexual orientation. Another advocate general ruled so also in case Lisa Grant vs SWT. And court has expressed that in decision making it takes into consideration not only European human rights treaty but also convention of citizenship and political rights. Lisa Grant has referred to the convention's article 28, which concept of sex includes also sexual orientation.

### **European court's decision**

After many stages European court of justice gave its decision in case Lisa Grant vs South West Trains in 17th february in 1998. It declared that it is not against the community law and Article 119 to deny a travel pass lesbian couple. According to court Lisa Grant and Jill Percey do not fill those requirements of employer and contract of employment. How is it possible that employer can treat people differently just because of their sexual orientation? I guess all constitutions ban discrimination, all forms of it, and rule that everyone should have equal treatment before the law. So does human rights treaties also.

Court argued that even it considered discrimination of lesbians and gay men regrettable, it has no resources (regulations) to influence on it. But same time it argued that article 119 includes also unequal treatment of lesbians and gay men. For example the commission has said that article 119 bans not only discrimination based on sex but also discrimination based on sexual orientation. But in Lisa's case the question was not about discrimination but about employers requirements, which Lisa did not fill. Commission argued that Lisa Grant and Jill Percey do not live in such relationship which is accepted to a proper relationship in courts of many member states and in community's law. She does not live with "spouse" or opposite sex person.

But if court has expressed that (article 119) discrimination based on sex includes also discrimination based on sexual orientation, aren't the requirements of employer illegal? Can employer require something like that?

Because European court of justice has argued that travel concessions are part of employees pay, it seems very odd, why Lisa Grant and Jill Percey did not get it. Specially when a man who worked before in Lisas place got it. Isn't it discrimination based on sex and particularly discrimination based on sexual orientation, if Lisa Grant and her partner do not get same benefits than others?

What will happen to Lisa Grant? Does she have to accept that she can not have equal benefits at work? She can try to influence on British government and wish that it would make it illegal to discriminate against someone because of her sexual orientation. When Amsterdam treaty comes in to force, and if community makes regulations which are binding on member states, Lisa Grant can maybe take her case again to national court. She can not take the case to the court of human rights because court does not handle cases between private parts. One way to act might be within labour unions.

### **Rights of lesbians and gay men**

In spite of speeches and declarations there has been only a very little progress on rights of homosexuals, although seven EC-countries have anti-discrimination laws in their constitution. When there is no specific anti-discrimination law the courts can do what ever they want. They can decide what forms of discrimination are legal or illegal. EC-treaties bans discrimination, that is one of the basic principles in community. But at this moment EC-treaties bans discrimination only based on nationality. Treaty of Amsterdam, that I already mentioned, will give the opportunity to ban discrimination based also on sexual orientation.

But what are the meaning of anti-discrimination laws, if human rights are natural and they belong to people naturally? EC Treaties say nothing about that rights and duties did not belong to lesbians and gay men as well. Equality before the law is one of the basic principles in EC and member states.

Nan D. Hunter has said in her article "Sexual Dissent and the Family" that the concept of the family is the biggest obstacle in trying to abolish second class citizenship of lesbians and gay men. In the judgement of European court of justice is expressed that although in some member states same sex relationships are in same position as opposite sex relationships, it is still unusual that these relationships are consired as equal.

But should same sex relationships be just like heterosexual relationships? Ruthann Robson says in her book "Lesbian Outlaw" that if lesbians and gays try to fit in heterosexual norms of society and want for example to be called

"spouse", is that good or is that an obstacle, which will make different family structures or what so ever impossible to develop?

Human right comission says that in spite of that attitudes to homosexuality has changed, article 8 and article 14 of Treaty of human rights do not protect homosexuals. Article 8 regulates that people have right to enjoy respect of family life. That respect does not apply on same sex relationships. But should same sex relationships be protected by articles which protects one's private life? There is many opinions. Ruthann Robson for example argues that when we demand that "lesbian sex should be protected by constitutional right to privacy that is not necessarily a good thing". If lesbians's sexuality is allowed in privacy, is it the only place where it is allowed? Privacy makes it impossible to say that one's sexuality is nobodys business.

Article 14 forbids discrimination, but it is not against the article to give better treatment to heterosexuals. European court of justice declares that at this moment it is not illegal discriminate against lesbians and gay men. Robson thinks that anti-discrimination laws classify gays and lesbians with other minorities and force them to behave one way to get protection. Robson also argue that anti-discrimination laws include an assumption that sexual orientation is determined early in one's life and can not be controlled. Because of this assumption gay men and lesbians could be on the mercy of the courts because they can not help themselves for their sexuality. They have right to be tolerated.

Diane Richardson (Sexuality and citizenship, 1998) argues that lesbians and gay men are entitled to certain rights of existence but even this right is very limited. To be a good citizen lesbians and gay men have to remain in the private sphere and do not look for publicity.

*(Sana Koskinen.  
<http://www.uta.fi/laitokset/sopol/seminars/rights/sanna.htm>.  
[30.10.2007])*

### ***Blood Donation: Discrimination Based on Sexual Orientation***

Written by Abram Bergen

Blood, we are frequently reminded in colorful ad campaigns, is in us to give. We are urged to give the gift of life. Although it is in all of us, flows through all our veins, it is apparently not in all of us to give. No matter how desperate the need for blood, no matter how many people could use our blood, some of us are disqualified from giving the gift of life.

I recently donated blood for the 11th time. As always, I felt good about it. I was giving of myself, quite literally, to those in need. Yet every visit to the Canadian Blood Services also leaves me feeling uncomfortable, as if, with the gift of life, I am also complicit with systemic discrimination based on sexual orientation. I feel increasingly uncomfortable with the blood donor screening

process, particularly with the bottom half of the second page of the donor questionnaire.

After taking my information, then drawing a little blood from my finger to check the iron content of my blood, I was given the donor questionnaire, the top half of which I was free to fill out on my own. Thereafter, I was called into a small room, which, incidentally, feels like an interrogation room, to have my blood pressure, heart rate, and temperature checked, and also to be asked the series of 'personal' questions on the bottom half of the questionnaire.

Some of the questions are about HIV/AIDS and STIs/STDs, drug use (both medical and narcotic), surgery, and risky sexual practices. I don't have an issue with these. The two questions that concern me, and that concern many people around the world, as you'll see from a small sampling of reactions which I have linked to below, have to do with sexual orientation. Of course, they are careful not to use those words — that would sound like discrimination. It's claimed the questions have nothing to do with sexual orientation. But the message is clear: gay and bisexual men are barred for life from donating blood, and women who have had sex with gay or bisexual men are ineligible for 12 months following that sexual act. Potential male donors are asked whether they have "ever had sex with a man, even one time, since 1977," while female donors are asked whether they have "had sex with a man who had sex, even one time since 1977, with another man" in the past 12 months.

The questions do not inquire into the type of sex men who had sex with other men had, nor whether they practiced safe sex, nor whether the sex occurred within a monogamous relationship. At the same time, no effort is made to determine whether heterosexual donors have had multiple partners. The assumption is that HIV/AIDS is primarily a gay male problem and is based on prevailing stereotypes and fears surrounding gays and bisexuals that remain largely unchallenged by our society.

According to the Canadian Blood Services website, men who have had sex with men, even once since 1977, are subject to an 'indefinite deferral' (a euphemism for ineligibility, rejection, exclusion). They include men who have had sex with men under HIV high risk activities, between "people who have taken money or drugs for sex, since 1977" and "intravenous use of illegal street drugs/narcotics." Surely not all sexual acts between men are as high risk as these. It's insulting to gay men who live safely and responsibly.

In their media Q&A section, under 'hot topics', the CBS states that the basic premise behind their indefinite deferral of men who have had sex with men even once since 1977 is that "the prevalence and incidence of HIV is much higher in males who have had sex with other males than it is in individuals having exclusively heterosexual sex." They further state, and I was given the same explanation by the last person who screened me, that despite the fact that they test all their units of blood using sophisticated technology, "there

still exists a brief period after the onset of a viral infection during which early signs of a virus cannot be detected," a period called the 'window period'.

The FDA in the U.S. has a similar statement, though much more detailed. They also cite increased risk and the 'window period'. And, they claim, "[n]o alternate set of donor eligibility criteria (even including practice of safe sex or a low number of lifetime partners) has yet been found to reliably identify MSM who are not at increased risk for HIV or certain other transfusion transmissible infections." The FDA bolsters its own position by stating that many European countries, despite having reexamined their deferral policy, have retained it, and that the "decision is also consistent with the prevailing interpretation of the European Union Directive 2004/33/EC article 2.1 on donor deferrals."

Still, if every pint of blood donated is tested, why the difference in treatment? If the issue is that tests cannot always detect the presence of the virus, is not then everyone's blood suspect? There are many, many heterosexuals infected with the virus. Heterosexuals are not immune. And what if gay men, bisexuals, or women who have had sex with gay or bisexual men, are simply lying to the interrogator? I had no polygraph device attached to my finger. And what if the women honestly did not know that their male partner(s) had also had sex with men?

Even if it could be proven that gay men present a much greater risk, why not work harder to find better, more effective ways of testing the blood? To me the indefinite deferral policy smacks of homophobia, and the claim that the deferral policy has nothing to do with sexual orientation is simply ridiculous. Some countries have re-evaluated and modified their screening procedures to eliminate discrimination based on sexual orientation. And there is much movement underway in many parts of the world, including Canada, and particularly from university campuses, to change these discriminatory practices.

*(Blog critics: Blood donation – Discrimination based on sexual orientation.  
<http://blogcritics.org/archives/2007/06/13/091602.php>. [30.10.2007])*

<b><u>GENERAL</u></b>	<b>1</b>
<b><u>DICTIONARY DEFINITION</u></b>	<b>1</b>
<b><u>OTHER DEFINITION</u></b>	<b>1</b>
<b><u>RACIAL DISCRIMINATION</u></b>	<b>2</b>
<b><u>RACISM IN EUROPE</u></b>	<b>6</b>
<b><u>RACISM IN AUSTRALIA</u></b>	<b>8</b>
<b><u>RACISM IN AFRICA</u></b>	<b>9</b>
<b><u>RACISM IN ASIA</u></b>	<b>10</b>
<b><u>RACISM IN NORTH AMERICA</u></b>	<b>10</b>
<b><u>SPECIFIC AREAS</u></b>	<b>10</b>
<b><u>CHILE</u></b>	<b>10</b>
<b><u>FRANCE</u></b>	<b>14</b>
<b><u>INDIA</u></b>	<b>15</b>
<b><u>UNITED KINGDOM</u></b>	<b>17</b>
<b><u>GENDER DISCRIMINATION</u></b>	<b>20</b>
<b><u>SEX DISCRIMINATION ACT (UK) – GENERAL OVERVIEW</u></b>	<b>20</b>
<b><u>SEX DISCRIMINATION IN EMPLOYMENT AND TRAINING</u></b>	<b>20</b>
<b><u>EMPLOYMENT</u></b>	<b>20</b>
<b><u>VOCATIONAL TRAINING</u></b>	<b>21</b>
<b><u>DEFENCES AND EXCEPTIONS</u></b>	<b>21</b>
<b><u>SEX DISCRIMINATION IN EDUCATION</u></b>	<b>22</b>
<b><u>EXCEPTIONS</u></b>	<b>23</b>
<b><u>SEX DISCRIMINATION IN GOODS, FACILITIES AND SERVICES</u></b>	<b>24</b>
<b><u>EXCEPTIONS</u></b>	<b>24</b>
<b><u>SEX DISCRIMINATION IN HOUSING</u></b>	<b>25</b>
<b><u>EXCEPTIONS</u></b>	<b>25</b>
<b><u>SEX DISCRIMINATION AND PUBLIC BODIES</u></b>	<b>26</b>
<b><u>DISCRIMINATION BY PUBLIC AUTHORITIES</u></b>	<b>26</b>
<b><u>GENDER EQUALITY DUTY</u></b>	<b>26</b>
<b><u>LEGAL CASES ON SEX DISCRIMINATION (US)</u></b>	<b>27</b>
<b><u>UNDERWOOD V. PERRY COUNTY COMMISSION, 11TH CIRCUIT</u></b>	<b>27</b>
<b><u>CANNON V. ST. PAUL FIRE AND MARINE INS. CO., N.D. TEX</u></b>	<b>27</b>
<b><u>JACKSON V. BIRMINGHAM BOARD OF EDUCATION</u></b>	<b>27</b>
<b><u>JESPERSEN V. HARRAI'S OPERATING CO. 9TH CIR.</u></b>	<b>28</b>
<b><u>OTHER ARTICLES</u></b>	<b>28</b>
<b><u>DON'T LET CULTURE BE AN EXCUSE FOR DEMEANING WOMEN</u></b>	<b>30</b>
<b><u>DISCRIMINATION BASED ON AGE</u></b>	<b>32</b>
<b><u>EMPLOYMENT</u></b>	<b>33</b>
<b><u>DISCRIMINATION AGAINST YOUNGER WORKERS</u></b>	<b>33</b>
<b><u>DISCRIMINATION AGAINST OLDER WORKERS</u></b>	<b>33</b>
<b><u>GOVERNMENT RESPONSES</u></b>	<b>34</b>
<b><u>ADVOCACY CAMPAIGNS</u></b>	<b>34</b>
<b><u>RELATED CAMPAIGNS</u></b>	<b>35</b>
<b><u>ACCUSATIONS OF AGEISM</u></b>	<b>35</b>
<b><u>OTHER ARTICLES</u></b>	<b>36</b>

<u>THE WAY WE TREAT THE OLD IS BOTH DISGRACEFUL AND STUPID</u>	36
<u>DISCRIMINATION BASED ON SEXUAL ORIENTATION</u>	39
<u>DISCRIMINATION BASED ON SEXUAL ORIENTATION (SANA KOSKINEN)</u>	39
<u>SEXUALITY AND RIGHTS</u>	39
<u>LISA GRANT'S CASE</u>	39
<u>LISA'S CASE AND ARTICLE 119 OF EC TREATY</u>	41
<u>EUROPEAN COURT'S DECISION</u>	41
<u>RIGHTS OF LESBIANS AND GAY MEN</u>	42
<u>BLOOD DONATION: DISCRIMINATION BASED ON SEXUAL ORIENTATION</u>	43

Amnesty International Publications: United States of America – Rights For All (1998)  
Claire Sherman Thomas: Sex Discrimination in a Nutshell (West Publishing Co., 1982)  
Turkkaya Ataoğlu: Discrimination & Conflict (EAFORD, 2000)  
Ian Law: Racism, Ethnicity and Social Policy (Prentice Hall Europe, 1996)  
Harry Goulbourne: Race Relations in Britain Since 1945 (Macmillan Press Ltd, 1998)