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وزارة العمل
تبني معنا



اللجنة الوطنية الأردنية لشؤون المرأة
The Jordanian National Commission for Women

Towards Pay Equity

A Legal Review of Jordanian National Legislation



Globally, it is estimated that women are paid 22.9 per cent on average less than their male counterparts. Official figures in Jordan suggest that the pay gap by sector is 41.3 per cent in manufacturing, 27.9 per cent in health and social work and 24.5 per cent in education (*Employment Survey, Department of Statistics, Amman, Jordan, 2010*).

To respond to the need to better address the pay gap between women and men in the labour market in Jordan, the Jordanian National Steering Committee for Pay Equity (NSCPE) with support from the International Labour Organization (ILO) conducted a review of national legislation in 2013. The review examines a wide range of Jordanian legal instruments, including the Constitution, the Labour Law (1996 and Interim Act No. 26 of 2010), Personal Status Law No. 36 (2010), the Civil Service Regulations (2007), the Temporary Social Security Law (2010), and the Trade Unions' Law, among others.

The NSCPE was established in 2011 with the mandate to promote effective means to close the gender pay gap in Jordan. The Committee is co-chaired by the Jordanian National Commission for Women (JNCW) and the Ministry of Labour. It comprises representatives of trade unions, professional associations, civil society, government bodies, the Chamber of Commerce, the Chamber of Industry, other private sector representatives and the media.

Building on comments by the ILO's Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts), the review highlights inconsistencies, contradictions and loopholes of the current legal framework vis à vis International Labour Standards, in particular the ILO Equal Remuneration Convention, 1951 (No. 100) and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111). This review suggests improvements which aim at eliminating discrimination, strengthening protection of wages, ensuring maternity protection and reconciling work and family responsibilities.

The Labour Code

Some findings

- No explicit provisions to prohibit discrimination in employment and occupation;
- No explicit provisions which establish a right to equal remuneration for men and women for work of equal value;
- Restrictions on women in terms of working time, sectors and tasks;
- Maternity leave periods not in harmony with other pieces of legislation;
- No legislative reference to gender-neutral job evaluations.

A job evaluation is a formal procedure which, through analyzing the content of jobs, gives a numerical value to each job. For the purposes of ensuring gender equality in the determination of remuneration, analytical methods of job evaluation have been found to be the most effective. Such methods analyze and classify jobs on the basis of objective factors relating to the jobs to be compared, such as skills/qualifications, effort, responsibilities and working conditions. These factors can then be divided into sub-factors, which can ensure that within each factor those aspects typically identified with women are not overlooked. Particular care must be taken to ensure that job evaluations are free from gender bias. It is therefore important to ensure that the selection of factors for comparison, the weighting of such factors and the actual comparison carried out are not discriminatory.

Some recommendations

*Amend **Article 4** (Preliminary) to include the following:*

The employer shall not discriminate, either directly or indirectly, against any person on the basis of real or perceived gender, race, color, religion, political opinion, national extraction or social origin, marital status, family responsibilities, disability, or HIV status, with respect to any aspect of employment, including access to employment, working conditions, rights or benefits, promotion at work, training or termination.

*Amend **Article 27** (Contracts of Employment) to read:*

a. Subject to the provisions of paragraph (2) of this section, an employer may not terminate the employment of a worker or give the latter notice, if the worker is:

1. a pregnant woman ~~who has reached at least her sixth month of pregnancy~~, or a woman on maternity leave.

*Review **Article 29 A 6** (Contracts of Employment) to consider the following:*

- A clear definition of sexual harassment;
- A worker's right to a work environment free from harassment;
- A specific mechanism and appropriate remedies to address sexual harassment and punish the offender whether or not the victim files a complaint under the Penal Code;
- A wider range of remedies, including reinstatement, to avoid workers having to quit their jobs and only receiving a set amount of compensation;
- Calculation of minimum compensation in the form of damages at a rate of a month's wage for each year of his/her actual service.

Amend **Article 45** (Protection of Remuneration) **to include** the following:

The employer shall apply the principle of equal remuneration for men and women for work of equal value, including work of a different type.

A. Whether jobs are of equal value shall be determined through the application of objective job evaluation methods, free from gender bias, based on an overall assessment of knowledge and skills, responsibility and effort, and working conditions required for the job.

B. In determining whether there is equal remuneration, all payments, allowances, and benefits shall be taken into account, including the ordinary, basic or minimum wage and overtime pay, and any additional emoluments whatsoever payable, directly or indirectly, in cash or in kind, by the employer to the worker.

Amend **Article 52** (Protection of Remuneration) **to include**:

A. In fulfilling its mandate, the Tripartite Committee shall seek to promote equality between men and women, and to ensure equal remuneration for men and women for work of equal value.

Amend **Article 67** (Organization of Work and Leave Time) **to read**:

"A ~~woman~~ **male or female** worker has the right for a period of one year without pay, in an establishment employing ten workers or more, to raise **his**/her children, and is entitled to return to work after the end of this period, but will lose this right if **he**/she worked for wages in any other establishment during that period."

Repeal Article 69 on Organization of Work and Leave Time as it restricts the right of women to work; to choose the right job opportunity; and to choose working hours that suit them, including during the night.

Review **Article 70** (Organization of Work and Leave Time) **to consider** the following:

Amendment as follows:

A. "Women workers shall be entitled to maternity leave with full pay for fourteen weeks including rest before and after delivery. Leave after delivery shall be no less than six weeks long and employment before the expiry of such a period shall be prohibited".

B. In case of late birth, the employer shall still provide 6-weeks full pay from the date of the actual birth.

C. Full leave and benefits shall also be provided in case of stillbirth.

Suggestions for further consideration:

- The possibility of granting men paternity leave as is the case in a number of countries should be considered, as well as a period of parental leave for one year, which could be unpaid, for both men and women.
- A provision allowing extra full paid leave before or after the maternity leave period, in the case of illness, complications or risk of complications arising out of pregnancy or childbirth, or for multiple births.
- A woman should also be guaranteed the right to return to the same or an equivalent position paid at the same rate at the end of her maternity leave.

Amend **Article 72** (Organization of Work and Leave Time) **to read**:

"Employers with at least twenty ~~women~~ workers in their employment shall provide an adequate facility under the care of a trained ~~nurse~~ **personnel** for the ~~women~~ workers' children under four years of age, if at least ten of them are in such an age group, **and according to regulations issued by the Minister of Labour**".

The Civil Service Bylaw No. 30 (2007)

Some findings

- The definition of the the term “salary” is not broad enough to meet the requirements of “remuneration” under ILO Convention No. 100;
- Family allowance is granted to a married male civil servant whether or not his wife works in a government institution, while this allowance is only payable to a married female civil servant if she proves that she is the wage earner for her children, or that her husband is deceased or disabled.

Some recommendations

Review **Article 4 A (General Principles)** *to consider the following:*

Amendment as follows:

The worker shall not be discriminated, either directly or indirectly, on the basis of real or perceived gender, race, color, religion, political opinion, national extraction or social origin, marital status, family responsibilities, disability, or HIV status, with respect to any aspect of employment, including access to employment, working conditions, rights or benefits, promotion at work, training or termination.

The principle of equal remuneration for men and women for work of equal value, including work of a different type, shall apply to civil servants.

A. Whether jobs are of equal value shall be determined through the application of objective job evaluation methods, free from gender bias, based on an overall assessment of knowledge and skills, responsibility and effort, and working conditions required for the job.

B. In determining whether there is equal remuneration, all payments, allowances, and benefits shall be taken into account, including the ordinary, basic or minimum wage and overtime pay, and any additional emoluments whatsoever payable, directly or indirectly, in cash or in kind, by the employer to the worker.

For consideration:

- Paid breastfeeding breaks;
- Child care facilities in public sector institutions in order to support workers, both women and men, to better reconcile work with family responsibilities.

Amend **Article 25 (Salaries and Allowances)** *to read:*

Family and all other allowances must also be paid to a woman employee on an equal basis as men.

Other Relevant Legislation

The legislative system is integrated and aims at ensuring clear rights and responsibilities, and achieving stability and security within society. The review also analyzes the following laws that could be considered to have an effect on guaranteeing equality in employment and occupation:

- Temporary Social Security Law;
- Civil Service Regulations;
- Personal Status Law;
- Civil Health Insurance Bylaw;
- Tribal Laws;
- The Laws of Trade Unions, and the Laws and Regulations for particular groups of workers, specifically the Jordanian Engineers Association Law, Regulation for pension and social security for male and female nurses and midwives issued by virtue of the law on nurses trade union;
- The regulation Governing Judicial Service for Statutory Judges;
- Regulations governing the employees of Jordanian universities;
- The regulation governing promotions and staff additional promotions for officers and members of the Jordanian armed forces;
- The regulation governing employees of municipalities;
- The regulation governing the employees of the greater Amman municipality;
- The regulation governing the employees of the institute for Anti-Corruption;
- Internal regulations of private companies.

AT THE POLICY LEVEL

To complement legislative measures, it is important that policy recommendations also be considered, this in light of the following practical examples identified in different sectors and institutions in Jordan.

Some challenges

- A high concentration of women in lower paid jobs and in a narrow range of sectors;
- Disparities in terms of remuneration between men and women in the private and public sectors;
- No reference to equal remuneration for work of equal value in wage setting mechanisms, including through minimum wage fixing and collective agreements;
- No official programme or campaign run by government or social partners advocating for equal pay;
- Workers, especially female workers forced to sign receipts proving that they have received their full wages while they are in fact receiving less. This is especially true in the private education sector;
- Dismissal of female employees due to pregnancy, or termination or non-renewal of contracts of female employees due to marriage and/or family responsibilities.

Some recommendations

- **Expanding career options for women**
Policies for women's empowerment must encourage and assist both men and women to take up "non-traditional" jobs.
- **Acquiring skills and training**
Appropriate measures to value women's work and reduce discriminatory stereotypes need to be promoted both in the education system as well as in the world of work.
- **Increasing information on job availability**
Improving capacities of employment systems to provide adequate information on job opportunities, wages and working conditions that are tailored to the skills and interests of women is essential to allow women to better access the world of work.
- **Social security and social protection**
Equalizing pension age and revisiting the compensation system proposed by the Temporary Social Security Law, increasing the allowed maternity leave, lifting the limitation to the number of pregnancies covered, and finding mechanisms for making childcare more accessible and available to working parents.
- **Raising awareness regarding the rights of women workers**
It is important to mobilize all social actors to raise awareness and change attitudes towards a more gender sensitive society.
- **Caring for the health and safety of women workers**
Occupational health and safety and work and life balance measures need to be strengthened in order to protect both men and women effectively.
- **Strengthening trade unions and employers' organizations to address gender equality**
Increased participation of women in workers' and employers' organizations providing the necessary space and movement to advance the rights of women workers through the revision of internal policies and structures.
- **Legislative protection**
Continuous review of national laws in order to ensure that legal texts are free from provisions which discriminate on the basis of gender.
- **Labour inspection**
Implementation of a mechanism to appropriately compensate complainants, and sanction non-complainant parties.
- **Finding efficient mechanisms to ensure implementation of the principle of equal opportunities in selection processes, promotion and training in public and private institutions**
Conduct public awareness raising on discrimination patterns in the workplace especially when it relates to denial of promotions, training and wages.
- **Supporting the efforts of Civil Society**
Partnerships among NGOs, trade unions and employers' organizations in this area could be particularly useful.