



International
Labour
Organization

LABOUR INSPECTION, GENDER EQUALITY AND NON- DISCRIMINATION IN THE ARAB STATES

Guide Book



LABOUR INSPECTION, GENDER EQUALITY AND NON- DISCRIMINATION

In the Arab states

Guide Book

International Labour Organization

Regional Office for Arab States

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Foreword

In the context of the unprecedented changes and transformations that have been taking place in the Arab region since 2010, the critical importance of decent work has been evident. Women's participation in this process of transformation has been crucial in highlighting their important role in society but also their aspirations for real gender equality.

Gender inequality remains a major concern in the region which has the lowest female economic participation in the world. Labour force participation rates for men average 76 per cent in the Middle East and North Africa (MENA), while they are 27 per cent for women (versus 74 per cent and 56 per cent respectively for the rest of the world).¹ The world of work in Arab states is not attractive to women, partly due to social values that assign women the primary role of caring for the family, and more importantly due to the failure of policies to provide women with opportunities and incentives to enter the labour market. Laws, regulations, and economic and fiscal policies pose obstacles to realizing Arab women's economic rights.

International labour standards offer the framework and guidance for national legislation that can ensure and promote decent work for both women and men. Labour inspection could be defined from a broad perspective as the part of the labour administration system tasked with the promotion, supervision and implementation of labour laws and the principles of labour policy in the workplace. Modern labour inspection systems primarily focus on the enforcement of the law; however, more and more prevention, protection and improvement are becoming key functions. Labour inspections are vital in implementing and enforcing the legal provisions that can promote gender equality. Inspectors need to be equipped with the knowledge, attitudes and tools which allow them to recognize and address differing needs, expectations and experiences of women and men workers. Labour inspectors become essential in identifying gender gaps, collecting and analysing information on gender disparities, and taking remedial action when possible.

This guide book builds on a number of global and regional materials on gender equality, discrimination and labour inspections. It is aimed to provide labour administrations in the Arab states with modern understanding and tools to use labour inspections strategically to enforce gender and non-discrimination related principles and rights at work with a vision to contribute to the realization of women's economic and social empowerment in the Arab world.

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¹ ILO-UNDP. *Rethinking Economic Growth: Towards Productive and Inclusive Arab Societies*. (Beirut). 2012, p. 21.

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Introduction

It is universally recognized that equality for women and men in the world of work is a core value of the international community and a fundamental human right.

Globally, progress has been made over the last decades to advance gender equality in the world of work. As recognized in the 2009 ILO Resolution concerning gender equality at the heart of decent work, many countries have considerably improved national policy and legislative frameworks, as well as enforcement of laws. In some countries, labour administration and labour inspection systems have better monitored and/or enforced the application of laws and regulations on gender equality. At the same time, employers' and workers' organizations have promoted gender equality. In general, awareness of workers' rights on equal opportunity and treatment has increased. Many governments have adopted active labour market policies addressing gender inequality within the larger objectives of job-rich growth, as well as full employment and decent work. Gender equality is globally accepted as a necessity for sustainable development and poverty reduction for women and men, improving living standards for all.

However, major challenges remain. Women are a diverse group that includes workers in the informal economy, rural, migrant, refugee, indigenous, minority, young women and women with disabilities, each with specific needs. In most countries, poverty is highly feminized. A large number of women, including migrant domestic workers, work in the informal economy, where inadequate working conditions, exploitation, abuse and sexual harassment, are common. Lack of voice and representation as well as lack of social security remain common features of working women in many parts in the world including the Arab states². A large portion of women continue to be discriminated on the basis of pregnancy, marital status, family responsibilities and age, while the gender pay gap remains a global phenomenon. Despite advances in educational attainment, horizontal and vertical segregation persists in the labour market. The majority of women remains over-represented in low-paying jobs; and numbers of women in executive, management and technical positions are still low compared to men.

The main ILO policy documents underpinning this material are:

- the 2009 ILO Resolution concerning gender equality at the heart of decent work, Geneva, International Labour Conference, June 2009 (ILC98-PR\3-2009-06-0323-1)
- the 2006 ILO Strategies and Practices for Labour Inspection, ILO Governing Body, November 2006, Geneva

Materials consulted for the adaptation of this guide book to the context of the Arab states include: labour inspection audits conducted by the ILO between 2009-2012; an ILO review of good practices of labour inspections in the Arab states; consultations with several departments of women's directorates and labour administrations; recent literature and research on the current status of the world of work in the region taking into consideration the discourse on gender equality after the uprisings of 2010-11. Part of this guide book also builds on materials on gender equality and labour inspections developed by the ILO in Cambodia, Indonesia and

²ILO, *Resolution concerning gender equality at the heart of decent work*, Geneva, June 2009 (ILC98-PR\3-2009-06-0323-1).

Pakistan. Its contents have been validated during a regional workshop that took place in Amman on 22-25 October 2013 with the participation of 16 labour inspectors from Lebanon, Jordan, occupied Palestinian territory and Yemen.

This guide book aims to mainstream gender equality into all the main functions of labour inspection. It can be used for specific training purposes, or as a specific gender component of the ILO modular training package on labour inspection. It is designed primarily to target senior labour inspection managers, senior and newly recruited labour inspectors and trainers. Contents are suitable for departments of women workers' rights in the relevant ministries, national commissions for women, trade unions, employers, employers' organizations, and representatives of human resources departments as well as gender equality specialists.

The guidebook is divided into the following chapters:

Chapter 1: provides a broad introduction to: 1) the role and function of modern labour inspection systems; 2) gender issues in the world of work; 3) how labour inspection system can promote gender equality at work.

Chapter 2: provides an analysis of gender-based discrimination issues that arise during the employment cycle, with a focus on issues related to recruitment, pay equity, vulnerable groups and sexual harassment. It provides examples and good practices from the Arab region and beyond.

Chapter 3: provides an analysis of issues related to maternity and family responsibilities. It showcases examples and good practices from the Arab region and beyond.

Chapter 4: provides a number of group exercises on issues related to gender equality in the world of work. Through participatory work, labour inspectors can be better equipped to inspect workplaces with a more gender aware mind.

Chapter 5: looks at how modern labour inspection systems can tackle discrimination at work. It provides a number of analytical tools to detect discriminatory practices within an enterprise.

This guide book is also supported by a DVD which contains useful powerpoint presentations and videos related to the work of labour inspectors, gender equality and non-discrimination from around the world.

CHAPTER 1: Labour inspection and gender equality

Labour inspection: an overview

Labour inspection is a part of labour administration that deals with the issues of promotion, supervision and enforcement of the labour legislation and the principles of labour policy at the workplace. The primary mission of any system of labour inspection is to ensure compliance with labour laws. Labour laws are the set of national regulations and standards designed to protect all workers while at work, and in modern systems also the self-employed³.

An effective system of labour inspection at the national level, carried out by professionally trained and adequately resourced inspectors, who are suitably qualified and independent of inappropriate external influence, benefits both employers and workers. Studies show that the costs resulting from occupational accidents and illnesses, absenteeism, abuse of workers and labour conflict can be very high. Labour inspection can help prevent these problems and thereby enhance productivity and economic development.⁴ The labour inspection system has the potential to play an even greater role than it has hitherto, in ensuring the protection of both men and women workers in all sectors and at all levels; in ensuring compliance at national level with national labour laws; and, ultimately, in assisting and strengthening the international supervisory system. A strong and effective labour inspectorate provides not only better protection, but also better prevention and productivity at work, to the benefit of everyone.

International labour standards

Labour administration and inspection are regulated by specific international labour standards. The ILO Labour Inspection Convention, 1947 (No. 81) is a priority and governance convention. Together with its Recommendation (No. 81), they provide benchmarks for effective labour inspection. They target the enforcement of laws relating to conditions of work and the protection of workers in industrial and commercial workplaces. The ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129) and Recommendation (No.133) on Labour Inspection in agriculture apply to agricultural undertakings with salaried employees or apprentices, and, subject to a declaration by the ratifying member State, to tenants, sharecroppers, members of cooperatives or even the family of the operator, thus in effect to what is known as the rural informal economy. The ILO Labour Administration Convention, 1978 (No.150), and ILO Labour Administration Recommendation, 1978 (No.158) contain a set of general provisions defining the role, functions and organization of national systems of labour administration. A Protocol of 1995 to Convention (No. 81) reaffirms the principles of

³This session is adapted from: ILO, *Labour Inspection and Gender Equality Manual*, (Geneva) 2012; ILO, *Decent Work and Gender Responsive Labour Inspection*, Islamabad, 2012; and ILO, *Labour Inspection in the Arab States: A Review of Best Practices*, Geneva, 2014 – forthcoming.

⁴ Richthofen. W.v. *Labour Inspection: A guide to the Profession*, Geneva, 2002, pp. 121-133 and 146.

the labour standard instrument and promotes its application to "non-commercial services" (essentially public administration, public utilities, local authorities, but also the armed services, police, prison, etc.). [See Annex 1: Labour Inspection Convention, 1947 (No. 81)]

Table 1 – List of the ratifications of labour conventions related to labour inspection⁵

Arab Country	Convention 81	Convention 129	Convention 150
Algeria	19/10/1962	Not ratified	26/01/1984
Bahrain	11/06/1981	Not ratified	Not ratified
Egypt	11/10/1956	20/06/2003	05/12/1991
Iraq	13/01/1951	Not ratified	10/07/1980
Jordan	27/03/1969	Not ratified	10/07/2003
Kuwait	23/11/1964	Not ratified	Not ratified
Lebanon	26/07/1962	Not ratified	04/04/2005
Libya	27/05/1971	Not ratified	Not ratified
Morocco	14/03/1958	11/05/1979	03/04/2009
Oman	Not ratified	Not ratified	Not ratified
Qatar	18/08/1976	Not ratified	Not ratified
Saudi Arabia	15/06/1978	Not ratified	Not ratified
Syria	26/07/1960	18/04/1972	Not ratified
Tunisia	15/05/1957	Not ratified	23/05/1988
United Arab Emirates	27/05/1982	Not ratified	Not ratified
Yemen	29/05/1976	Not ratified	Not ratified

Functions of labour inspection systems

Labour inspectors are part of the government labour administrative system. As representatives of the state in the world of work, labour inspectors are empowered with considerable powers, but also bound by a set of duties regarding the manner in which they exercise their functions. The proper exercise of these rights and duties is fundamental to the authority of inspectors and the inspection system as a whole. Labour inspectors shall exercise their powers and functions in an impartial manner compatible with their public office, and their primary role is to ensure compliance with all labour protection standards, as well as to develop healthy labour relations.

Labour inspection systems' main functions include⁶:

- a) securing the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;

⁵ Info retrieved in August 2013.

⁶ ILO C. 81 Art. 3

-
- b) supplying technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
 - c) bringing to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

The annual report published by the central inspection authority shall deal with:

- ✓ laws and regulations relevant to the work of the inspection service;
- ✓ staff of the labour inspection;
- ✓ statistics of workplaces liable to inspection and the number of workers employed;
- ✓ statistics of inspection visits;
- ✓ statistics of violations and penalties imposed;
- ✓ statistics of industrial accidents;
- ✓ statistics of occupational diseases.

The annual report shall supply detailed information on the number of women inspectors and provide particulars of the classification of persons employed under the following headings: men, women, young persons, and children. (ILO R.81 9(b) (3) and 9 (c) (3).

Comprehensive modern labour inspection systems

Globalization and fast changing economies and societies require a flexible labour inspection system able to adapt to new needs. Current modern trends in labour inspection move away from just pure enforcement and immediate penalties towards an approach that puts emphasis on prevention, protection and improvement of working conditions and environments. Modern labour inspection is concerned with all women and men workers in all work situations, including those employed in small and medium sized establishments, as well as those engaged in informal economic activities, many of whom are women.

In recent times, many countries have improved their labour inspection systems to become more comprehensive. Labour inspectors have been empowered to look into and report on issues outside the immediate scope of labour laws with nevertheless implications on working conditions and working environments. For example, differences in family allowances set by the social security law, or instances of sexual harassment, which are usually a problem women face more than men in the workplace and that is usually dealt within the criminal codes, or health and food safety issues regulated by other laws and monitored by different institutions.

Globally, there is an increasing realization that the purview of labour inspection with its larger scope and increased capacity to reach out and protect more workers, has to continue to adapt to respond to the changing dynamics of the world of work. Many economies are characterized by extensive informality and sub-contracting, where workers are at risk of exploitation. In many countries home-based and domestic work forms a considerable part of the economy, which presents challenges around entry to workplaces. Agriculture still remains a major sector significantly contributing to the economy of many countries in terms of revenue and

employment, yet the majority of workers in agriculture are not covered by labour laws. In all the above described sectors, it is fairly common to find women in significant numbers. However, these are also the sectors where the application of labour laws is absent or limited. The majority of countries in the Arab states exclude agriculture and domestic workers from their labour laws. Also workers in Free Zones are often not covered by labour laws and therefore not inspected or have different rules and monitoring systems applying to them.

Extension of labour administration functions:

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as--

- (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) members of co-operatives and worker-managed undertakings;
- (d) persons working under systems established by communal customs or traditions.

C150 - Labour Administration Convention, 1978 (No. 150), Article 7

Labour inspection systems in Arab states: progress and challenges

As highlighted above, labour inspectorates worldwide face numerous challenges in applying existing laws and regulations to fast shifting and intricate labour dynamics. A large and unregulated informal economy, changing employment relationships, the increasing complexity of supply chains and industrial processes, emerging new jobs (e.g. green jobs), and the entrance of new categories of workers (i.e. migrants and women) in the labour force require substantive transformation of labour inspectorates in terms of mandates, means, skills and inspection methods.

To respond to these new trends, several countries have adopted innovative approaches and strategies combining traditional labour inspection methods with new ones, in collaboration with other public bodies and social partners. This is not yet the case in many Arab states despite their commitment to the relevant international labour standards and the development of legislation related to labour inspections.

In recent years, several Arab countries have highlighted labour inspections as an area that requires more attention. Some examples of good practices from the region are listed below.

Good practices on labour inspection systems in the region

Between 2000 and 2009, **Algeria's** budget for labour inspection increased by 120 per cent, providing inspectors with an attractive professional salary and better equipment to carry out their work, and even expanding the physical presence of inspectorates across the country. As a result, there is now one vehicle for every six inspectors (up from one for every 15), enabling inspectors to devote three days a week to inspection visits. This led to an increase in visits from 82,000 in 2006 to 126,000 in 2009. Over the same period, the number of computers for every inspector has risen from one in 50 to one computer for every labour inspector. Algeria has set up a National Labour Institute to ensure proper training for labour inspectors.

In 2006, **Jordan** made a major step towards improving the efficiency of labour inspection in the country by consolidating and merging its different labour inspection bodies. During the same year, it launched the "Golden List" aimed at improving compliance with the Labour Law within the apparel sector. Employers abiding with the code of ethics and conduct set by the Golden List are rewarded with benefits such as exemption from bank guarantees and the expedition of customs procedures. Other good practices include the establishment of national coordination committees, which involve several ministries and operate on multiple staff levels. For instance, the Inter-ministerial Technical Level Committee includes mid-level staff from the Ministries of Labour, Trade and Justice and from the General Intelligence Department. Its main purpose is to investigate and respond to violations falling outside the scope of the Labour Law, including trafficking. The Ministry of Labour's Department of Inspection also manages a free multi-lingual hotline, which mainly files migrant workers' complaints. In 2010, it responded to 891 complaints, 92 per cent of which were provided with a solution.

Oman started a reform programme for its labour inspection system in 2008. It has recently put in place an electronic information sharing system that allows inspectors to fill checklists electronically on site and to access the central database at the same time. Inspectors have recently been provided with 180 portable digital assistants (PDAs) to simplify their daily tasks.

In 2007, the **United Arab Emirates** introduced an innovative labour inspection tool consisting of a wage protection mechanism, which ensures electronic monitoring of wages paid to foreign workers. A Wage Protection Office was established with a team of inspectors enjoying the same powers as other labour inspectors. The Office supervises the proper payment of wages paid by bank transfer. The United Arab Emirates has also put in place a Memorandum of Understanding (MoU) between the Ministry of Labour and the Health Authority to strengthen cooperation on OSH activities. This MoU aims to introduce prevention policies in the area of OSH and to promote the exchange data on occupational injuries and diseases.

Source: International Labour Conference, 100th Session (2011) [*Report V: Labour Administration and Labour Inspection*](#)

Countries recognize that to varying degrees and in respect to different issues, human and material resources in inspection systems are inadequate to carry out their functions effectively,⁷ and to cope with changing realities such as the huge influx of migrant workers and refugees which poses new challenges for labour inspection, and the enforcement of labour

⁷ ILO audits on national labour inspection systems and annual reports presented by member states for Conventions Nos. 81 and 129.

standards. Insufficient inspection staff remains a main concern. Moreover, Arab states need to invest more in building a real and efficient central authority at the heart of the labour inspection system, and in being able to guarantee coordination and cooperation within and outside the system, e.g. with any gender or non-discrimination units (where there exists). Crucial to this is the establishment and implementation of policies to ensure compliance in a uniform and effective way taking into consideration the different needs of workers' and employers'. Several reforms have taken place in the last ten years to strengthen labour inspection central authorities, such as in Oman or Jordan, or to develop clear national labour inspection policies as in Iraq. However, coordination of different inspectorates and supervisory bodies remains a main challenge together with transparent cooperation and consultation with social partners.⁸

Gender issues in the workplace: an overview

There are a number of gender related aspects within the workplace that must be looked at in order to assess the situation of discrimination in the world of work. Issues such as access to employment, health and safety benefits, work-life balance, career development and training, and the terms of contractual employment affect men and women differently if they are gender blind or gender biased.

One example is that of gender issues in Occupational Safety & Health (OSH). If health promotion policies are to be effective for women or men, they must be based on more accurate information about the relationship between health and gender roles. Health promotion policies for working women need to take into account all their three roles: as home-carers, as mothers and as workers. The effects on health of each role have to be looked at separately and the potential conflicts and contradictions between them need to be examined. For example, a pregnant worker might have to take additional caution or measures regarding her posture in which she works or exposure to chemicals she might be working with, precautions that might not apply to non-pregnant women or men.

In many organizations the traditional concept of a career with its hierarchical model of continuous service and regular promotion progress is gender blind. It makes women's careers, which are generally 'broken' or 'interrupted' in order to have or care for children, incompatible. Evidence suggests that even in those professions where women have been able to take advantage of career breaks and flexible working hours, they have still effectively been blocked from the most senior positions. Many women have adapted to the predominant male model of success, making conscious choices either not to have children, to defer having them, or (where able) to organize their domestic life so as to be able to commit to their careers.

Gender discrimination in the workplace, whether it is blindness or bias, holds the labour force back from achieving optimal productivity, and it is also a hurdle to achieving gender equality. Thus, gender mainstreaming – the concept that men and women's equality should be an institutionalized basis – is of prime importance.⁹

⁸ ILO, *Labour inspection in the Arab states: a review of best practices*, Geneva, 2013. Forthcoming

⁹ From ILO, *Decent work and gender responsive labour inspection*, Islamabad, 2012, p.23

Gender mainstreaming is “the process of assessing the implications for women and men on any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated and reported on with reference to women, men and work.” (ECOSOC, 1997)

Annex 2 of this guide book provides a detailed glossary of some key gender concepts.

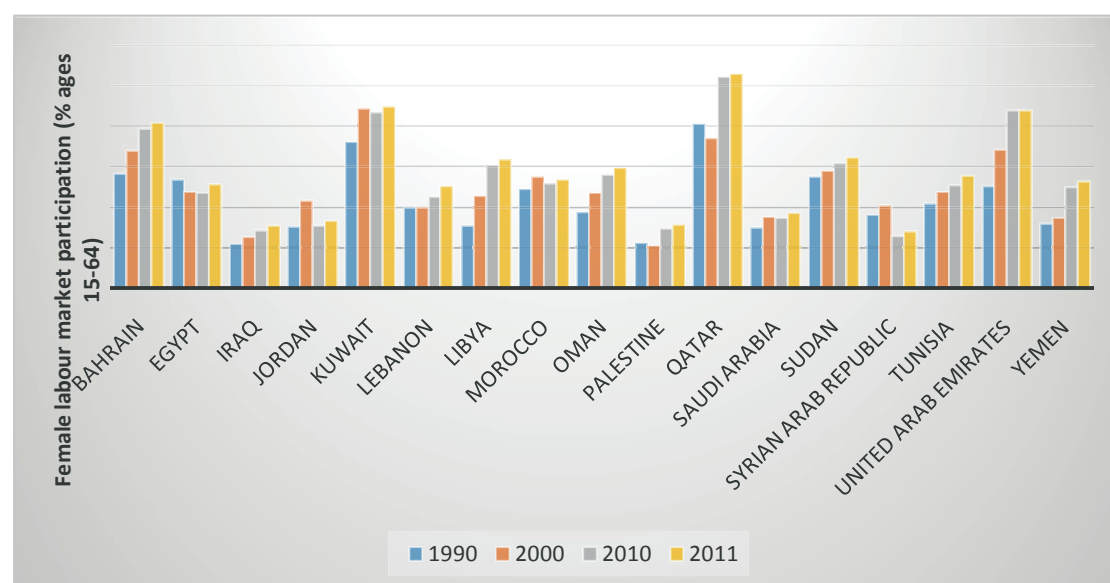
Women’s labour force participation in the Arab region: progress and challenges

It is difficult to discuss issues related to women’s economic participation in the labour force without referring to the turmoil created by the Arab uprisings since late 2010. The revolutions in Tunisia, Egypt, Libya and Yemen have not only led to significant, ongoing political transitions but they have also brought about discussions on the role of women in society and instigated a lively debate on women’s social and economic rights. There is no question that past development models have led to improvements in the areas of health and education especially for women. However, the full economic potential of the Arab world, particularly of women and youth, has not yet been tapped. Arab economies are plagued by low productivity, high unemployment, and low competitiveness, resulting in increased poverty and inequalities for women and men alike. Hence the call for a new development model that is inclusive, sustainable and firmly rooted in social justice.

In this context, the status of Arab women is undoubtedly central to addressing the challenges faced by Arab economies. Even though Arab women have achieved high levels of education, these have not been translated into economic outcomes and despite some improvement, the region still remains the lowest in the world for female economic participation. Labour force participation rates for men average 76 per cent in the Middle East and North Africa (MENA) versus 74 per cent for the rest of the world, but the respective rates for women are 27 per cent in MENA versus 56 per cent for the rest of the world.¹⁰

¹⁰ ILO-UNDP. *Rethinking Economic Growth: Towards Productive and Inclusive Arab Societies*. (Beirut). 2012, p. 21.

Figure 1 – Female adult labour-force participation from 1990 to 2011



Source: 2013 <http://kilm.ilo.org/KILMnet/>

Table 2 – Labour force participation

LFPR (15+) - 2012			LFPR (youth) – 2012	
Country	Males	Females	Males	Females
Algeria	72.1	15.2	46.0	8.9
Bahrain	87.2	39.4	50.8	31.5
Egypt	74.4	23.9	47.3	20.0
Iraq	69.3	14.7	47.9	8.2
Jordan	66.3	15.8	41.9	11.5
Kuwait	82.4	43.4	43.1	24.0
Lebanon	70.9	22.8	40.3	17.5
Libya	76.6	29.7	49.4	23.6
Morocco	74.6	26.4	52.2	18.8
occupied Palestinian territory (oPt)	66.3	15.4	41.7	8.8
Oman	82.6	28.7	51.7	24.5
Qatar	95.0	51.3	74.3	32.7
KSA	74.2	18.1	26.3	7.2
Syria	71.6	13.3	49.0	9.5
Tunisia	70.4	25.7	43.8	21.8
United Arab Emirates	92.3	43.2	58.2	30.8
Yemen	72.3	25.5	52.5	21.5

Source: 2013 <http://kilm.ilo.org/KILMnet/>.

The fact that Arab women have the lowest recorded employment rates in the world does not reflect actual lack of involvement in economic activity. Many Arab women tend to be engaged in informal work. It is important to take into consideration that a large share of the informal economy in the Arab states is composed of female domestic workers, typically migrants, whose work and living conditions are seldom acknowledged. A large portion of women is also involved in various economic activities in the agricultural sector, which remains a major sector in the economies of many Arab states. Female agricultural workers are a major group in populous, low-middle income Arab countries with substantial agricultural activities (see table 3).

In addition, the majority of women perform unpaid housework and care work that is largely underreported in official statistics. Only a few countries in the region have incorporated informal employment modules in their labour force and establishment surveys while others have conducted informal economy surveys though sporadically or only recently. Moreover, very few countries have specific policies to address informal employment in the region; as a consequence, women's unpaid contributions to national economies are insufficiently reflected in policy development and social protection benefits.¹¹

Table 3 – Employment by sector (percentage)

Country	Year	Agriculture		Industry		Services	
		Male	Female	Male	Female	Male	Female
Bahrain	2004	1.0	0.1	18.2	3.0	80.8	96.9
Egypt	2008	28.2	45.6	27.3	5.6	44.4	48.8
Iraq	2008	17.1	50.7	21.6	3.7	61.3	45.6
Jordan	2010	2.2	1.0	20.5	9.3	77.2	89.7
Morocco	2008	34.2	59.2	24.0	15.4	41.6	25.2
Oman	2000	6.6	5.4	10.7	14.0	82.4	80.3
occupied Palestinian territory	2008	10.1	27.5	29.0	11.3	60.9	61.2
Qatar	2007	2.7	0.0	58.3	4.8	38.9	94.9
Saudi Arabia	2009	4.7	0.2	23.3	1.5	72.0	98.4
Syrian Arab Republic	2010	13.6	23.8	35.8	9.3	50.7	66.9
United Arab Emirates	2008	5.2	0.2	28.3	7.1	66.3	92.5
Yemen	1999	43.1	87.8	13.8	2.9	43.0	9.3

Source: 2010 <http://kilm.ilo.org/KILMnet/>.

Root causes of women's economic discrimination¹²

As mentioned above, the fact that women and men face considerable barriers in accessing decent work and other economic, social and political rights is a key element in the Arab uprisings. As the above data indicates, women face even greater barriers than men. Pro-market and legal reforms, national budgets, and economic decisions have been neither inclusive nor responsive to demands for development and equality; rather, they have been gender blind. In

¹¹ Several sources: ESCWA, *Addressing Barriers to Women's Economic Participation in the Arab Region (2012)*, and ILO, *Rethinking informal economy in the Arab region: a human rights based approach*, Amman Jordan 16-18 April 2013, Workshop report. (http://www.ilo.org/beirut/events/WCMS_232637/lang-en/index.htm).

¹² This part is taken from Nadia Hijiab's paper for the ILO, *Regression or Progress? Barrier to equality of economic opportunity and the Arab transitions*, 2013, http://www.ilo.org/beirut/events/WCMS_220911/lang-en/index.htm

general, the world of work in Arab states is not attractive to women, in part due to prevailing social and cultural beliefs that assign different social and economic roles to each gender. These different roles have been translated into laws, regulations, and procedures that pose obstacles to women's internationally recognized economic rights. Ironically, these obstacles result in discrimination not only against women but also against men, children, and the family in a part of the world where the family is revered as the cornerstone of society.

Beyond these conceptual challenges, it is important to highlight the root cause underpinning most economic discrimination against Arab women in laws, regulations, and practice: the belief that men are the head of the household and the primary authority, as is the case in other parts of the world where patriarchy has and still holds sway. In the Arab region, however, men's role as head of the household is enshrined in Islamic law. According to Islamic law men have a legal obligation to spend on women and the household, whereas women have no such obligation (although in reality they do spend on the household). Men are given a host of economic rights which, depending on the country, include entitlement to health benefits, tax deductions and allowances, among others.¹³ They are also given other legal rights such as the right to unilateral divorce, control over women's freedom of movement, and the right to pass their nationality to their children and spouse.

The evidence that needs to be collected includes the impact of jobless growth, which has led to: higher overall unemployment rates for women compared to men (i.e. more women are looking for and not finding work); gender-based wage gaps and lower returns on employment; gender-based occupational segregation; a gap between available skills and labour market demand; weak national planning; and oil wealth which funds a generous welfare state and inadvertently discourages female labour force participation. It is also vital to invest in accurate data regarding Arab women's economic activity, which remains largely uncounted for given that much of it is in the informal economy.

Against this background, it is worth noting areas in which women's breakthroughs in the workforce also challenge social norms. The judiciary is one such area because the presence of female judges challenges the view of women as legal minors whose testimony is worth half that of a man. Lebanon and Jordan are among the countries where women have recently made inroads into the judiciary. In Lebanon, the number of women judges soared from almost none in the 1990s to 38 per cent of all judges in civil, criminal and commercial courts, and 28 per cent of judges in the administrative courts by 2010. However, women are still not allowed to serve as judges and female lawyers in religious courts. In Jordan the increase was due to positive discrimination by the government. A programme to encourage female judges was over-subscribed and the percentage of women in the judiciary rose from 1.2 per cent in 2000 to 7.1 per cent in 2009.¹⁴

¹³ See, for example, Egypt's explanation of its reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): women and men's rights are "equivalent" rather than equal "out of respect for the sacrosanct nature of the firm religious beliefs" and because the husband has the legal obligation to spend on the wife. See also Jordan's 5th Report to CEDAW in 2010 where it explains that differences in rights are related to differences in responsibilities within the family unit as the husband is financially responsible for the family irrespective of the wife's own wealth.

¹⁴ Jordan's Fifth National Periodic Report to the CEDAW Committee – Summary, p. 7.
<http://www.women.jo/admin/document/CEDAW%20English.pdf>

Participation in local councils is another area where women can challenge stereotypes, especially as local politics brings them closer to the people. In another example from Lebanon the number of women elected for the municipal elections more than doubled to 531 from 2004 to the end of the decade. Of the women councillors, 57 went on to be elected mayor by their municipal councils, heading 6 per cent of municipal councils. The women reportedly overcame local patriarchal attitudes through a process of negotiation with both leading families and political groups. Women in the Arab region remain much unrepresented both in workers' and employer's organizations. However, signs of progress are growing. In the United Arab Emirates (U.A.E.) for example a recent instruction from the U.A.E. government makes it mandatory to have female board members in every company and government agency in the country. This is a first step towards recognizing the importance of diversity in the workplace and leadership capacities of women.¹⁵

Female leadership and company profitability

Various studies show that there is a positive and significant correlation between company performance, profitability and gender diversity in company senior management. Both small and medium enterprises and larger companies can gain a competitive advantage by providing opportunities for women to advance in top management.

The Finnish Business and Policy Forum (EVA) analyzed statistical data from 12,738 limited companies in Finland. The study found out that when all other factors affecting firm profitability (such as size, sector etc.) were controlled, a company with a female CEO was about 10 per cent more profitable than an otherwise similar company with a male CEO. Similarly, a company with a gender-balanced board was on average about 10 per cent more profitable than a similar company with an all male board. The study concludes that to boost their profitability, companies should promote gender-neutral career opportunities and take steps to remove the numerous and often difficult-to-observe mechanisms and networks that favour men and hinder women from climbing the executive ladder.

Similarly, McKinsey & Company analyzed the performance of 89 European listed companies with the highest level of gender diversity in top management. The selection criteria included the number, proportion and function of women on the executive committee and the presence of more than two women on the board. The study found that companies with a high level of gender diversity in top management outperformed their sectoring terms of returns on equity (11.4 per cent versus a sector average of 10.3 per cent), operating results (EBIT 11.1 per cent versus 5.8 per cent), and stock price growth (64 per cent versus 47 per cent over the period 2005- 2007).

Another McKinsey & Company's study established a striking correlation between organizational excellence and women's participation in management bodies. The nine criteria analyzed were: leadership, direction, accountability, coordination and control, innovation, external orientation, capability, motivation, work environment and values. The study was based on analysis of answers from 58,240 respondents from 101 large worldwide corporations.

Sources: Finnish Business and Policy Forum (EVA): *Female leadership and firm profitability*, EVA Analysis No. 3 Helsinki, 2007; McKinsey & Company: *Women matter: Gender diversity, a corporate performance driver*, Paris, 2007.

¹⁵ New York Times, *U.A.E. promotes women in boardrooms*, Dec. 2012
<http://www.nytimes.com/2012/12/20/world/middleeast/uae-requires-women-board-members.html? r=0>

Gender equality and international labour standards

International labour standards are a primary means of promoting equality in the world of work for all workers. The two main pillars for promoting gender equality are the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Both conventions are part of the set of ILO fundamental principles and rights at work. They are accompanied by the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183), which provide guidance for reconciling work and family responsibilities, and for protecting pregnant women workers. It is important to note that Convention No. 156 applies to both men and women workers with responsibilities in relation to their dependants. The Part-Time Work Convention, 1994 (No. 175) and the Home Work Convention, 1996 (No. 177) provide international standards for decent, flexible work arrangements that can improve gender equality. All these instruments constitute the international reference for member states to use in designing their national legislative framework, taking into consideration the needs of women and men in the world of work.¹⁶

The ratification and application of ILO key gender equality conventions remain of crucial importance to improve the prospects of women in the region. It is important to note that even where the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) are ratified, legislative frameworks are not in line with them. For instance, the principle of equal pay for work of equal value remains often misunderstood and not applied and provisions for non-discrimination are typically insufficient or not appropriately enforced. Only Jordan is currently engaging in a thorough process of integration of the principle of “pay equity” through the establishment of the Jordanian National Steering Committee for Pay Equity (2011)¹⁷ which aims to promote effective means to close the gender pay gap in Jordan with support from the ILO.

Only Yemen has ratified the Workers with Family Responsibilities Convention, 1981 (No.156), while the Maternity Protection Convention, 2000 (No. 183) has not been ratified in the region with the exception of Morocco in North Africa. With respect to maternity protection, moving towards social security-funded maternity benefits, as is the case in some countries in North Africa and in Jordan, will increase women’s employment in the private sector.

With respect to family responsibilities, households have responded to the lack of adequate social care infrastructures and provisions by recruiting an overwhelming number of women migrant domestic workers,¹⁸ whereas those who cannot afford it typically rely on women in the family, as gender roles have changed little in that regard and women remain the main caregivers. Women migrant domestic workers typically bear the brunt of multiple discrimination and to this extent it is essential for the region to work on the principles of the recent ILO Domestic Workers Convention, 2011 (No. 189). Some national counterparts, particularly in the Gulf countries, have also expressed interest in promoting home work for

¹⁶ For more information on this session: ILO, *Gender equality and decent work, selected ILO conventions and recommendations promoting gender equality*, Geneva, 2008.

¹⁷ For more information see chapter 4.

¹⁸ The exact number of women migrant domestic workers in the Middle East is not well known on account of lack of adequate statistics.

women which also necessitates the promotion of rights in line with the Home Work Convention, 1996 (No. 177).

Table 4 – Ratification of international labour standards on gender equality in Arab states

Country	No. 100	No. 111	No. 156	No. 183
Bahrain		2000		
Egypt	1960	1995		
Iraq	1963	1959		
Jordan	1966	1963		
Kuwait		1966		
Lebanon	1977	1977		
Libya	1962			
Morocco	1979	1963		2011
Oman				
Qatar		1976		
Saudi Arabia	1978	1978		
Sudan	1970	1970		
Syrian Arab Republic	1957	1960		
Tunisia	1968	1959		
United Arab Emirates	1997	2001		
Yemen	1976	1969	1989	

Source: NORMLEX Information System on International Labour Standards¹⁹

Gender stereotyped rights and “protection”²⁰

As highlighted above, legal frameworks in the Arab states remain weak in terms of gender equality and non-discrimination. Nevertheless, Arab labour codes are evolving towards ensuring better legal provisions for gender equality in the world of work. For example, Morocco’s 2007 Labour Code reiterates general principles of gender equality and non-discrimination and specifies equal pay for work of equal value, equality of treatment by recruitment agencies and women’s right to belong to trade unions among other things. Amendments to the Labour Law in Saudi Arabia prohibit gender-based gaps in wages and salaries; Jordan’s labour law is soon likely to be amended to include the principle of pay equity.

Such laws have yet to be fully implemented and gender wage gaps, a clear disincentive to women’s work, remain wide throughout the region – even in the Gulf States. In Morocco, women’s average earnings were estimated at 24 per cent of those of men in 2010 (US\$1,603 compared to US\$6,694 for men) and it continues to grow despite the law.²¹ In the Bahraini private sector women holding university diplomas earn an average of 704 Bahraini dinars a month compared to male university diploma holders who earn an average of 1,270 dinars. In private schools in Jordan, the average monthly remuneration is 435 Jordanian Dinars (JD) for

¹⁹ http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:4179544887448868:::P12000_INSTRUMENT_SORT:4. Accessed in September 2013.

²⁰ This part is from Nadia Hijiab paper for the ILO, *Regression or Progress? Barrier to equality of economic opportunity and the Arab transitions*, (2013) http://www.ilo.org/beirut/events/WCMS_220911/lang-en/index.htm

²¹ World Economic Forum (WEF) *Global Gender Gap 2010*, pp. 222-223

males and 254 JD for females with a gender pay gap of 41.6 per cent.²² Another workforce disincentive is tax regulation that assigns tax benefits and allowances to the husband even if the wife earns a higher income. There is some amelioration but not yet an acceptance of equality in this regard. For example, in the United Arab Emirates, a recent decree enables female employees who are the principal breadwinners to receive a social allowance – if they are divorced or if the husband is unemployed.

Many Arab labour laws still reflect the belief that women are a vulnerable group in need of protection from night work and hazardous work. For example, Egyptian Labour Law 12 of 2003 provides that the relevant government ministers may establish conditions under which it is inappropriate for women to work between 7 p.m. and 7 a.m. (Article 89), while Article 90 allows the concerned minister to determine unwholesome or morally harmful areas of work for women, as well as jobs from which women are barred.²³ Laws intended to protect women effectively restrict their access to the labour force or force them to work illegally in poorly paid jobs. In addition, this discriminates against men since all human beings need to be protected from hazardous work.

On a positive note, legislation in some Arab countries is also moving in the direction of covering home-based work. The Morocco labour code covers home-based work while Jordan has now extended unemployment insurance and health insurance to all workers, including housewives. Lebanon has passed legislation providing an optional health insurance scheme for self-employed workers and a safety net provision of healthcare for the poor, which extends protection to the informal economy. However, this does not cover Palestinian workers since there is no system of reciprocal arrangements, one of the many areas of discrimination against Palestinian refugees in Lebanon.

Meanwhile, the legal framework in several Arab countries regarding sexual harassment has evolved as a result of civil society activism. Other countries, however, still assume that existing penal code provisions are sufficient protection even though these may be too weak. For example, Bahraini legislation provides three months' imprisonment or a fine "not to exceed" 20 Bahraini dinars for anyone who "treats a female in a way that offends her modesty." By contrast, in Jordan, sexual harassment is now a specific offence, as it is in Morocco and Tunisia. Tunisian legislation even covers harassment through recordings or text messages and penalties are doubled if the victim is a child or is disabled.

Women are greatly under-represented in trade unions, although workers have minimal rights to organize in most Arab countries due to government restrictions on fundamental freedoms. In Egypt for example, only 104 women were among the 18,292 members elected to the Egyptian Trade Union Federation executive committee in 2006, and only 32 of the 481 members elected to high-ranking positions were women.²⁴ Nevertheless, women workers played an important role in the Egyptian uprising.

²² Towards pay equity: a study on the gender pay gap in the private education sector in Jordan – ILO 2013 http://www.ilo.org/beirut/publications/factsheets/WCMS_215490/lang-en/index.htm

²³ *The International Trade Union Confederation's 2011 Annual Survey of Trade Union Rights- Bahrain* found that workers' rights were circumscribed in several ways, e.g. not being allowed collective bargaining. <http://survey.ituc-csi.org/Bahrain.html?edition=336>

²⁴ Amnesty International, *Women Shape New Egypt*, p. 7.

By contrast, despite limited trade union rights in pre-uprising Bahrain, women headed five of the trade unions in the General Federation of Trade Unions and women were board members in 15 trade unions.²⁵ The Federation took up issues of concern to women workers, calling in 2009 for longer breastfeeding breaks and increased maternity leave in the private sector. It also helped to raise awareness about the apparent increase in discrimination against working women in the public and private sectors in Bahrain. It is worth noting that trade union rights worsened during the uprisings; for example, the Bahrain Nursing Union was dissolved in March 2011 after nurses helped the wounded.²⁶

Modern labour inspection and gender equality

Modern labour inspection systems must respond to the increasing need to become more gender sensitive. While women's labour force participation increases around the world, labour inspections need to take into consideration different needs, expectations and experiences of women and men workers both in the formal and informal economies. Modern labour inspection systems actively promote the recruitment of women labour inspectors as a step to reach out to the needs of working women. Meanwhile, modern labour inspection systems also provide the tools to all labour inspectors to understand the gender dimensions of how labour laws are applied.

Labour inspection and the promotion of gender equality

Labour administration, with its inspection function, plays a vital role in implementing and enforcing the legal provisions that promote gender equality. Inspectors must, therefore, have the knowledge, attitudes and tools by which they can recognize and address the issues, differing needs, expectations and experiences of women and men.

The full inclusion of females in the labour inspectorate has been an important principle since the founding of the ILO. Article 8 of the Labour Inspection Convention, 1947 (No. 81) and Article 10 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129) require that both men and women are eligible to be appointed as inspection staff. In the words of the Labour Inspection Recommendation, 1923 (No. 20), "while it is evident that with regard to certain matters and certain classes of work, inspection can be more suitably carried out by men, as in the case of other matters and other classes of work inspection can be more suitably carried out by women, the women inspectors should in general have the same powers and duties and exercise the same authority as the men inspectors, subject to their having had the necessary training and experience, and should have equal opportunity of promotion to the higher ranks". In view of the important role of women in the modern labour inspection system, more steps should be taken to encourage the recruitment, training and promotion of women inspectors and to ensure that there is greater gender awareness throughout the inspection system.

Labour administration can contribute to the promotion of gender equality through a number of practical steps. These include the development of gender equality indicators for inspection;

²⁵ The International Trade Union Confederation's 2011 Annual Survey of Trade Union Rights found that workers' rights were circumscribed in several ways, e.g. not being allowed collective bargaining.

²⁶ This session is from Nadia Hijiab paper for the ILO, *Regression or Progress? Barrier to equality of economic opportunity and the Arab transitions*, (2013)p.15

and the creation of systems for measuring and monitoring the progress of agreed objectives. Labour inspectors can also use their position, not only as enforcement agents, but also to raise awareness about women workers' rights under labour law. The policy to assign suitably trained women inspectors to deal with the special issues associated with women workers is an important aspect. It can be useful to have a number of labour inspectors who specialize in sectoral labour protection issues, e.g. textiles and domestic services. Moreover, women in the labour inspectorate are important for taking steps to encourage the recruitment, training and promotion of women inspectors and greater gender awareness in the inspection system.

Labour inspectors thus have a crucial role in identifying gender gaps, collecting and analyzing information on gender disparities, taking remedial action when it falls into his/her purview, providing this information to different actors as evidence of their interventions, and eventually promoting gender equality for decent employment and to create more working opportunities to women.

ILO 2006 General Survey on Labour Inspection findings (Chapter V):

- ✓ In general, there is no legal impediment that limits women's access to work as labour inspectors;
- ✓ Many countries indicate that their legislation gives women equal opportunity of access to employment as labour inspectors;
- ✓ Nevertheless in many countries, labour inspection staff are still mostly male or do not reflect the proportion of women in the workforce;
- ✓ Some countries still do not report on the number of women and male labour inspectors;
- ✓ Other countries have reported different distributions between male and female labour inspectors. For example Albania (21% women in 2009), Armenia (21% women in 2008), Bangladesh (3% women in 2008), Croatia (49% women in 2008), Cuba (33% in 2001), Hungary (29% women in 2010), Japan (7% women in 2009), Latvia (62% women in 2008), Moldova (15% women in 2010), Paraguay (28% women in 2010), South Korea (22% women in 2007).

The General Survey states that "In view of the important role for women in the labour inspection system, it is to be hoped that more steps will be taken to encourage the recruitment, training and promotion of women inspectors and to ensure that there is greater gender awareness throughout the inspection system."

ILO, *Gender equality and labour inspection manual*, 2012 pp.27-28

Data from official reports to the Committee of Experts in the Application of Conventions and Recommendations and data also drawn from research by the ILO's Labour Administration and Inspection Programme in 2010

Around the world, labour administrations are taking action in the context of enforcement of fundamental principles and rights at work with some interesting experiences with regard to non-discrimination. In Costa Rica, for example, special campaigns for women workers and

adolescents involving the labour inspectorate have been implemented to ensure that dismissals of pregnant women and adolescents are not discriminatory. In Europe, many countries have made progress in conducting specific campaigns on gender equality at work. In Spain, since the promulgation of the Equality Act in 2007, an inspection intervention plan has been developed, which includes training, education, a checklist and inspection visits aimed at verifying cases of wage discrimination in specific sector enterprises. In Ukraine, with ILO support, the inspectorate has developed a training programme and checklist on gender equality in the workplace, aimed at educating inspectors on the subject and ensuring more effective application of the legal provisions on non-discrimination.²⁷



**Non-discrimination campaign (maternity)
Labour inspectorate in Ukraine**



**Non-discrimination campaign (sexual
harassment) Labour inspectorate in
Ukraine**

Another area in which modern comprehensive labour inspection should seek to be more gender sensitive is that of occupational safety and health. Health hazards faced by women workers have traditionally been under-estimated because occupational safety and health standards and exposure limits to hazardous substances are based on male populations. When sex differences in occupational health and safety have previously been explored, the focus has been on the physical differences between the male and female reproductive systems, or on assumed differences between men and women's psychology. It is only in the last 15 years that gender-oriented research on aspects of health has been developed demonstrating that

²⁷ ILO, *Labour Administration and Labour Inspection*, ILC 2011 Report V, p.76-77

differences among working populations are mainly based on individual human variability rather than on biological differences between sexes. The differential response of women to health hazards is essentially due to the various work-related risks that women face according to the specific type of work they do and to the multiple roles they have in society.

Segregation by occupation leads to exposure to particular occupational health and safety hazards. Health risks that women face are associated with their specific working conditions. Certain health disorders are related to occupations or industries which employ large numbers of women workers. For example, women working in the health sector have a high proportion of back injuries, which is related to the nature of the work and to the high concentration of women workers in nursing, but not to the fact that they are women.

Existing epidemiological research must be critically assessed to find any systematic bias in the way the investigation is done when studying women's health and illness patterns, to avoid assumptions based on stereotypes and traditional cultural values. Assessing real differences between sexes and avoiding erroneous judgements about women's lives is the only way to succeed in producing knowledge beneficial to women's health.

Labour inspection and gender equality in Arab states

As highlighted above, women's participation in the labour force in Arab states remains low due to a combination of structural impediments (legal regulations and societal norms) which limit women's access to economic participation. It can be argued that labour inspectors have a role to play in promoting women's access to the labour market. By improving working conditions and reducing discrimination in the workplace, labour inspectors can make employment more appealing to women and contribute to increasing their participation in the labour force.

Efforts need to be made in the Arab states to increase the capacity of labour inspection departments by providing them with knowledge and tools to understand the gender dimensions of how labour laws are applied, and to take into consideration the different needs, expectations and experiences of women and men workers both in the formal and informal economies. Currently, the gender-related issues covered by the labour inspectorate are linked to the different systems in place, their focus (labour, OSH) and their coverage.

According to an international survey on labour inspection undertaken by the ILO in 2006, provisions relating to the protection of women regarding pregnancy and maternity leave are covered by most systems of labour inspection. However, the main focus of most labour inspection reports is first and foremost on issues of hygiene, welfare, and OSH and not discrimination.²⁸

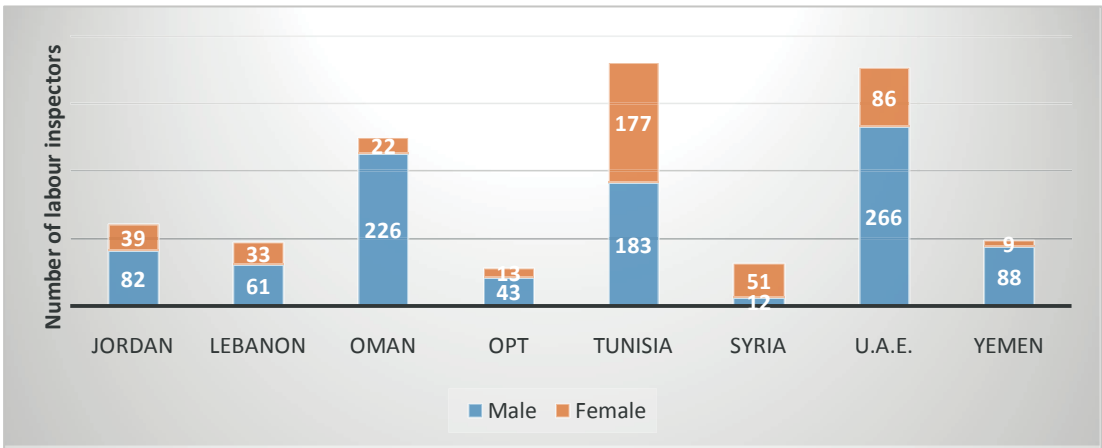
²⁸ ILO, *General Survey of the reports concerning the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)*, Proceeding of the International Labour Conference, 95th Session Geneva, 2006. Available online: [http://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2006\)1B.pdf](http://www.ilo.org/public/libdoc/ilo/P/09661/09661(2006)1B.pdf)

Some limitations on the action of labour inspection affect vulnerable working women in particular. This refers, for example, to the difficulty in allowing labour inspectors to visit private homes liable to inspection. For instance, in Yemen men labour inspectors do not usually inspect workplaces where employees are predominantly women, and such places are inspected by female inspectors. However, due to the shortage of female inspectors, inspection responsibilities are sometimes delegated to other female staff members at the Ministry of Social Affairs and Labour. It is arguable that such staff do not undergo any type of relevant training.

In the majority of Arab states, national provisions authorizing workplace visits exclude people who carry out domestic work or home work (the majority of whom are women) from protection under the labour law. In general, labour inspectors do not reach out to domestic, agricultural, and temporary workers as well as enterprises limited to family members. Inspections in the Free Economic Zones and the informal economy are often not part of the mandate of labour inspectors. Clearly these are highly feminized sectors which remain blind to the purview of labour inspection. Hence there is an urgent need for more awareness and progressive changes within labour administrations to effectively address the needs of working women and men.

Modern labour inspection systems should actively promote the recruitment of women labour inspectors as a step towards reaching out to the needs of working women. Unfortunately, this is still not the case in Arab states where the number of labour inspectors remains low in general, and the presence of women inspection workers is very limited as showed in the table below.

Figure 2 – Number of labour inspectors distributed by sex²⁹



An increase in women labour inspectors would allow among other issues a better detection of cases of sexual harassment. In some countries in the world labour inspectorates assign suitably trained women inspectors to deal with the special issues of women workers some of which can include specialization in sectoral labour protection issues, including textiles and domestic services. Around the world, only a few governments report such a practice. Some examples are:

²⁹ Information as of September 2013.

Austria: Women are assigned to inspect general working and living conditions in undertakings where women and young people are in the majority;

Honduras: Women inspectors are in charge of inspections related to child labour and the employment of women, health and safety conditions in workplaces and the enforcement of the minimum wage;

Ghana: An office of women's affairs was set up in 2001 in the Department of Labour to deal with women's problems at work (specifically sexual harassment);

Sri Lanka: There is a department dealing with matters related to women and children. The department is run by a woman commissioner of labour who is assisted by two other high-level labour civil servants, both of whom are women;

Switzerland: Women inspectors investigate or are called upon to deal with matters that specifically affect women workers (Section 79 of Ordinance No. 1 of 10 May 2000 respecting the Labour Act (OLT 01));

Oman, Yemen and Saudi Arabia only assign female labour inspectors to conduct inspections in exclusively women dominated enterprises and workplaces. In **Jordan** women labour inspectors are usually tasked with following up on cases related to sexual harassment in the workplace.

ILO, *Labour inspection and gender audit*, (2012) p.29 and direct information from Ministries of Labour

CHAPTER 2: Gender discrimination issues that arise during the employment cycle

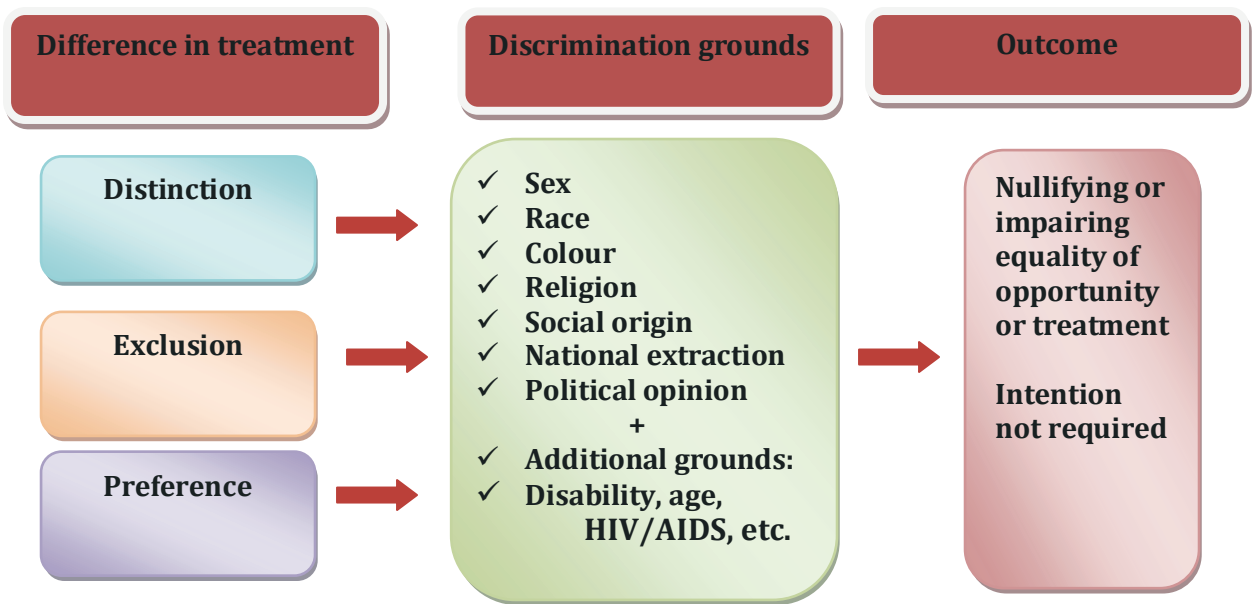
There are several areas related to discrimination in the workplace that labour inspectors can deal with, according to their different functions and the legal mandate (the control and enforcement of legal provisions, advice, awareness raising, reporting to competent authorities).

This chapter³⁰ gives an overview of these issues and prepares the ground for a more practical session on how labour inspection can detect and tackle discrimination at work.

The main areas covered by this chapter are:

- 1. Discrimination
- 2. Working conditions
- 3. Dignity at work
- 4. Vulnerable groups

Defining discrimination:



All workers should be given equal opportunity in employment irrespective of their sex, race, colour, religion, social origin, national extraction, political opinion and other forms of discrimination such as disability, age, HIV/AIDS, sexual orientation and many more. Discrimination is not something static; it might affect different groups of people at different

³⁰ The contents of this chapter are largely based on the following documents: ILO, *Gender Equality; a guide for collective bargaining*, main authors S.Olney, E.Goodson, K.Maloba Caines, F.O’Neal, Geneva, 2003; and from ILO, *Labour inspection and gender equality*, Geneva, 2012. All examples refer to S.Olney’s presentation delivered during the training session on gender equality, discrimination and labour inspection, Amman-Jordan 14 August 2013.

points in time depending on cultural, social, economic and legal changes. It requires countries to constantly raise the bar of their level of application, while continuously ensuring fairness.

Nevertheless, women worldwide remain a highly discriminated against group on the grounds of their sex. They face discrimination merely because they are women or because of their marital status or family responsibilities. They also face multiple levels of discrimination such as women migrant domestic workers who are often discriminated on the base of their sex, colour and nationality, or women with disabilities.

Examples of sex-discrimination

- ✓ Forced retirement on marriage or pregnancy
- ✓ Sexual harassment
 - Quid pro quo (sexual blackmail)
 - Hostile work environment
- ✓ Excluding women from dangerous jobs without any justification related to pregnancy or maternity
- ✓ Mandatory pregnancy testing or questions regarding planned pregnancies during recruitment
- ✓ Gender-biased allocation of benefits and allowances

Often it is difficult to prove that women workers have been the victims of discrimination in the areas of recruitment, job advancement, promotion, training opportunities, dismissal and lay-offs. Sex discrimination can be overt, such as limiting applications for certain jobs to only men or only women (direct discrimination).

Examples of direct discrimination

- Job advertisement excluding applicants of a certain gender or age, or people with disabilities
- Practice of hiring only people of a certain religion
- Exclusion of women from jobs traditionally done by men
- Pregnancy testing
- Sexual harassment

Job requirements, for example, which have the effect of disqualifying women on average more than men (e.g. physical strength requirements), should only be permissible if they are demonstrably necessary for performing the required work.

Example of a job advertisement:

Looking for an experienced supervisor

Interested male candidates of 25 to 40 years of age with proven record of experience are encouraged to contact our human resources department (provide a recent colour photograph). Available 24 hours a day and absolute reliability required!

Discrimination occurs more often during the recruitment process than at any other stage of the employment cycle. Discrimination in access to employment is also one of the most common forms of discrimination in the Arab labour markets. Women are among the most affected and therefore often find it very difficult to find skilled employment. Individuals seeking employment need to be protected against discrimination from the beginning to the end of the recruitment process. This involves developing non-discriminatory selection and testing criteria, as well as prohibiting discriminatory requirements in job advertisements and from hiring decisions.³¹

Furthermore, the gender-based division of labour, i.e. the social distribution of tasks according to whether one is male or female, often results in the channelling of men and women into different types of role and tasks within an occupation. Such segregation does not necessarily equal discrimination but it does show the strong hold that sexist stereotypes have in the minds of the business world. The right not to be discriminated against means the right to be treated according to one's merits and capabilities and not to suffer prejudice on the grounds of the characteristics that social stereotyping imposes on a sex. The gathering of quantitative and qualitative data on gender analysis of the labour market offers the labour inspectorate references and points of support on which to situate the company diagnosis and the adoption of corrective measures.

But discrimination is often just as subtle, systemic or even unintentional, as in cases of indirect discrimination. The ILO Committee of Experts on the Application of Conventions and Recommendations defines "indirect discrimination" as "apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but results in a disproportionately harsh impact on some persons on the basis of characteristics such as race, colour, sex or religion, and is not closely related to the inherent requirements of the job." So where a requirement or condition is gender-neutral on its face, but in reality results in disproportionate disadvantages for women compared with men, this may be a case of indirect discrimination.

Examples of indirect discrimination

- ✓ Apparently neutral law or practice
- ✓ Disproportionate negative impact on a particular group
- ✓ Training is provided outside regular working time (women)
- ✓ Language requirements unrelated to job-duties (racial minorities)
- ✓ Exclusion of domestic workers from labour legislation (women)

Inherent requirements of a particular job or special measures of protection and assistance to: meet the requirements of particular persons or compensate for past discrimination or address existing inequalities, does not constitute discrimination.

Law and practice in most Arab countries remains inadequate to protect against discrimination in hiring women, and a mismatch between women's educational attainment and their

³¹ ILO, *Equality and non-discrimination at work in East and Southeast Asia - Guide*, Section 5.2, pp.47-48, 2011.

opportunities in the labour market persists, despite a recent increase in the number of young Arab women entering more scientific and non-traditional fields of education. However, due to traditional ideas on what kinds of work is suitable for women and men and prevailing ideas on jobs for women that are socially accepted by society and the continuous perception that women's main job remains in the sphere of the household, most countries in the region continue to prefer male employees for most jobs, and women find their occupational choices limited at the recruitment stage. In general the number of occupations available to women is much smaller than those available to men (horizontal job segregation by sex) and the types and levels of jobs mainly held by men have more status and better employment conditions including higher wages compared to those of women. This discrimination in recruitment leads to and results in horizontal and vertical job segregation in most Arab labour markets. (See example from Jordan below)

Relevant to the regional context is a particular vulnerable group constituted by women migrant workers who are often employed as domestic workers, as well workers in Free Zones (Egypt, Jordan, Morocco, Tunisia, and United Arab Emirates) or in retail. In this context, different levels of discrimination might happen, such as nationals and non-nationals are provided with different treatment, or are discriminated on the grounds of race, colour, national extraction.

Women with disabilities also represent a vulnerable group in the region. They often suffer from double or triple discrimination based on sex, disability and poverty. While civil society is very active in promoting their rights, women with disabilities remain highly discriminated against in the workplace where diversity policies and reasonable accommodation are slowly being integrated.³²

³² For the concept of "reasonable accommodation" refer to the *UN Convention on the Rights of Person with Disabilities*: <http://www.un.org/disabilities/convention/conventionfull.shtml>

Occupations in which the employment of women is prohibited in Jordan

- Mines and quarries, and all works of extraction of underground minerals and rocks.
- Metal melting, mirror silvering with mercury.
- Manufacturing of explosives and fireworks and related works.
- Welding metal in all its forms.
- Industrial processes involving lead, lead oxide or lead compounds.
- Mixing and kneading processes in the manufacturing and repair of electrical batteries.
- Cleaning workshops in which the activities described in items 6 and 7 above, are carried out.
- The asphalt and rubber industries.
- Loading, unloading and storage of goods in ponds, docks, ports and warehouses for the storage, receipt and maintenance of ships.

Employment prohibited to pregnant and breastfeeding women

- Work involving exposure to nuclear radiations and X-ray.
- Any work involving the handling or exposure to vapors and fumes from oil derivatives.
- Works involving exposure to teratogenic substances.
- Works that require exposure to ethylene in dyeing and carbon disulfide in the production of viscose rayon and cellophane, and hydrocarbons in refining oil, mercury, phosphorus, nitrobenzoyl, manganese, calcium and beryllium.

Working hours in which women may not be employed i.e. between ten o'clock at night and six in the morning except in the following occupations and after approval

- Work in hotels, restaurants, coffee shops, nightclubs, theatres, cinemas and shopping malls.
- Work in airports, air travel and tourist offices.
- Work in hospitals, clinics and pharmacies.
- Jobs related to transportation of persons and goods by sea, air and land.
- Work in the field of information technology and related occupations.
- Jobs involving the making of a company's annual inventories, drawing of its balance sheet and final accounts and working during sales provided the number of days subject to the provisions of this paragraph does not exceed 30 days per year, and the number of actual working hours does not exceed ten hours per day.
- Work to preserve goods from certain loss and prevent the loss of perishable materials or avoid the risk inherent to a technical activity, to take delivery or to carry specific substances, provided the number of days subject to the provisions of this paragraph does not exceed 20 days per year.
- Work in establishments that provide services at social events.
- Family projects.

Source:

Issued in 2010 by virtue of the provisions of article 69 of Labour Law N°8 of 1996.

Working conditions

Wages & Benefits

- ✓ Equal pay
- ✓ Bonus systems
- ✓ Job classification
- ✓ Pension schemes
- ✓ Housing benefits
- ✓ Transport benefits
- ✓ Medical benefits

Hours of Work

- ✓ Basic hours & overtime
- ✓ Part-time work
- ✓ Flexible working time
- ✓ Job sharing
- ✓ Night work
- ✓ Expecting and nursing mothers
- ✓ Time off for family responsibilities

Leave & Family Responsibilities

- ✓ Annual leave
- ✓ Compassionate leave
- ✓ Maternity/paternity/parental leave
- ✓ Medical/sick leave
- ✓ Paid education/training leave
- ✓ Other personal leave

Wages and benefits³³

The principle of equal remuneration for work of equal value, which is sometimes referred to as “pay equity”, is enshrined in the ILO Equal Remuneration Convention, 1951 (No. 100). The principle was later incorporated into Convention No. 111, which broadens the protection to prohibit pay discrimination on all grounds covered by Convention, 1958 (No. 111). Pay equity, however, is also a more general concept related to overall fairness in pay. There are two main concepts related to pay equity. The first concept is “equal remuneration for equal work,” which means that men and women should receive equal pay and benefits for work that is the same or requires the same skills, effort, and responsibility, and that is performed under similar working conditions. The second and most important concept is that of “equal remuneration for work of equal value”; this means that even if jobs are entirely different, but based on objective criteria free from gender bias, they are of equal value; i.e. remuneration, which includes the overall value of the pay package, should be the same. This ensures that men and women receive equal remuneration for jobs which may involve different types of qualifications, skills, responsibilities, efforts (physical, mental and emotional) or working conditions, but which are nevertheless of equal value.

Equal remuneration for work of equal value should not only apply to the basic or minimum wage, but also to any additional benefits or emoluments arising out of the worker’s employment paid by the employer to the worker, directly or indirectly, and in cash or in kind. This means that all the family and housing allowances, travel and food allowances, bonuses and special pension or health care schemes should be paid to male and female workers in accordance to the value of their work, without any discrimination on the basis of sex or other grounds. The scope of Conventions Nos. 100 and 111 extends to “all workers” and is not limited to wage and salary earners in formal employment, but includes all workers in informal employment, such as those self-employed in agriculture, in small trade or in domestic service.

³³ This session builds on ILO, *Equal Pay – an introductory guide*, Geneva 2013 and ILO Chapter 5, *Towards pay equity a legal review of Jordanian national legislation*, Amman, 2013. http://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_216695/lang-en/index.htm & http://www.ilo.org/beirut/publications/factsheets/WCMS_215490/lang-en/index.htm

Pay discrimination occurs in different forms. In a few cases, sex is still a specific criterion for determining wage rates, which is direct discrimination. This is still found in exceptional cases in some collective agreements and minimum wage instruments that set different rates for women and men, for example in agriculture.³⁴ There are also some discriminatory legislation and collective agreements limiting the allowances and benefits to which women are entitled.³⁵ However, the main problem is pay discrimination in practice, rather than being set out in laws or collective agreements. Pay discrimination can also occur when women and men doing different jobs, which are of equal value, are paid differently. Such discrimination may result from gender bias in job evaluation methods and job grading systems. These occur because skills, effort, responsibilities and working conditions associated with typically female jobs are unrecognized or undervalued. Women therefore tend to rank lower in job grades and pay scales in the enterprise.

The systems that provide for different pay beyond the basic wage, such as overtime, merit, seniority pay, productivity and family allowances can also contribute to indirect discrimination. This is because women have more family responsibilities and work less overtime. Even when they do work overtime, the overtime calculation is less advantageous than for men. Women also have more career interruptions. This is a disadvantage especially when seniority is a large part of determining overall pay. Productivity bonuses may be higher for skills or responsibilities associated with jobs carried out mainly by men. In some countries, including in the Arab states, many women are denied family allowances because only men can be heads of household by law. In addition, men and women can have different bargaining opportunities so that men obtain higher payments for similar working arrangements and performance levels.

Determining whether work is of equal value should be made on the basis of objective criteria, free from gender bias. Objective job evaluation methods are the best means of determining the value of the work to be performed. They compare jobs to determine the relative position of one job to another in a wage or salary scale. The two types of formal job evaluation methods are:

- a) Global or ranking evaluation methods: they rank jobs on the basis of the importance of the job requirements. They examine the whole job rather than its core components. This tends to identify the characteristics of the jobholder with the characteristics of the job itself. Ranking methods ascertain the importance of jobs within organizations, but do not determine the difference in value between them.³⁶
- b) Analytical job evaluation methods break jobs down into components or factors and sub-factors, and attribute points to them. Factors include:
 - Skills and qualifications acquired through education, training or experience;
 - Responsibility for equipment, money and people;
 - Effort, which can be physical, mental and/or psychosocial; and

³⁴ ILO, *General Survey on the fundamental conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization: Giving globalization a human face*, 2008, pp 680, 684.

³⁵ Ibid, paras 693-694.

³⁶ See Pay Equity Task force: *Pay equity: A new approach to a fundamental right, Final report 2004*, Ottawa, Canada, available at: <http://www.payequityreview.gc.ca> and <http://www.canada.justice.gc.ca>

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- Working conditions, which encompass both physical (noise, dust, temperature, and health hazards) and psychological aspects (stress, isolation, frequent interruptions, simultaneous requests and client aggression).

By determining the numerical value of a job, analytical job evaluation methods show whether two different jobs have the same value or not. Different jobs that have the same numerical value are entitled to equal remuneration. Job evaluation is concerned with the content of the job, not with the skills and characteristics of those performing the job, nor with their performance.

Gender analytical job evaluation methods were first conceived in the 1950s. At that time, physical effort, a characteristic of male jobs, was emphasised. Important aspects of female jobs, such as cleaning, looking after others and organizing others were disregarded. Today job evaluation methods rely on a larger set of factors. This is due to the technological advances, shifts from manufacturing to services and the greater attention paid to “soft skills”. But even when job evaluation methods capture the skills of typical female jobs, these often score lower than male jobs. Responsibility for money or equipment, for instance, is often valued more than responsibility for people. This is due to the false assumption that the skills associated with caring for others or cleaning - jobs that resemble the work performed by women for free at home - are intrinsic to women’s nature and not acquired through learning and experience. This leads to the systematic under-estimation of female-dominated jobs which translates into lower wage rates for women.

For a list of frequently overlooked job characteristics in women's work please see pp40-41 of ILO, Pay equity introductory guide, Geneva, 2013

Pay equity and labour inspectors

The monitoring of compliance with the laws on discrimination and equal remuneration is generally the responsibility of the labour inspectorate. However, the capacity of labour inspectors to check compliance with equality and equal pay principles is in many cases limited. This is partly due to a lack of understanding of what is needed to ensure equality and non-discrimination, and equal pay for equal work and work of equal value.

However, examples from some countries show that the labour inspectorate can play an important role in doing so if adequate capacity building measures are taken. In the Czech³⁷ Republic for instance, the Ministry of Labour has developed “Methodological instructions for the inspection of compliance with equal opportunities for men and women”. The instructions, which entered into force in January 2003, contain the relevant legal provisions with regard to equal remuneration and equal treatment in the workplace (including matters relating to recruitment, training and promotion, working conditions, sexual harassment, and maternity and parental leave). They also give guidance on how gender equality inspections should be carried out, and provide a list of questions to be asked during the inspections.

³⁷ Czech Republic, Ministry of Labour and Social Affairs: *Methodological instructions for the inspection of compliance with equal opportunities for men and women*, 2003, Prague.

Pay equity in Arab states

Across the region, discrimination against women in the workplace remains enshrined in national laws, regulations and procedures and in widely practiced social and cultural norms. This applies to “pay equity” too – a universal right that most Arab women do not enjoy. Official figures in Jordan suggest that the gender 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. Official figures in Jordan also show that the average pay gap between men and women can reach 29 per cent in the private sector and 21 per cent in the public sector.³⁸ In Kuwait the gap stands at 35 per cent, in Tunisia at 31 per cent and in the oPt women are paid on average 23 per cent less than men.

Despite efforts of countries to reduce the wage gap, unequal pay between men and women remains a global concern, even in countries where gender equality is highly recognized and reflected in laws and practices. Jordan is the only country in the region that is currently promoting work on pay equity. ILO supported the establishment of the National Steering Committee on Pay Equity (NSCPE) in 2011. The committee is led by the Jordanian National Commission for Women and the Ministry of Labour. It comprises representatives from trade unions, professional associations, civil society, government bodies, the Chamber of Commerce, the Chamber of Industry, other private sector representatives and the media. On 15 May 2013 the NSCPE was granted official and permanent status through a ministerial decree.

The Committee has been part of extensive policy oriented research that led it to examine factors and causes of unequal pay in national legislation and to provide substantive evidence of the gender pay gap in the private education sector (schools and universities). Through continuous ILO support, the NSCPE has carried out extensive awareness raising including with members of parliament and civil society. Through this process, pay equity has been integrated into the national employment strategy for 2012- 2015 and an action plan for pay equity.³⁹

³⁸ Department of Statistics of Jordan, *Employment Survey*, 2010

³⁹ For more information on pay equity in Jordan please consult: A policy oriented legal review: ILO, *Towards Pay Equity: A legal review of Jordanian national legislation* published in English and Arabic, ILO, *An in-depth study on the gender pay gap in the private education sector in Jordan*, published in English and Arabic. <http://www.jordanpayequity.org/en/home>, <https://www.facebook.com/JordanPayEquity> and a video “Towards pay equity for work of equal value in Jordan”

Primary reasons for pay inequalities in the private education sector in Jordan

- **Stereotypes and prejudices** that perceive that jobs in private schools require less effort and are therefore more suitable for women.
- **A tradition of undervaluing women's jobs and women's qualifications** reflected in a high demand of men teachers and therefore better salaries offered to them, as opposed to a high supply of women teachers who are expected to accept salaries which in some cases are below the minimum wage. Family allowances are exclusively paid to men.
- **Social and cultural factors** such as the belief that men are the breadwinners and therefore entitled to higher remuneration; women's lack of information regarding their rights; family responsibilities that fall on women; and under-representation of women in trade unions.
- **Absence of a legislative/policy and regulatory framework** on equal pay for men and women for work of equal value.
- **Lack of coordination among stakeholders** that limits their ability to interfere and control the employer-worker relationship in questions related to pay equity for women and men.

ILO, Issue Brief, *Towards pay equity, A study on the gender pay gap in the private education sector in Jordan*, May 2013 http://www.ilo.org/global/about-the-ilo/multimedia/video/institutional-videos/WCMS_213844/lang-en/index.htm

Tackling gender-based wage discrimination in Jordan through targeted labour inspection

Jordan's private education sector is plagued by widespread violations of the minimum wage. It is common practice for employers to pay female (but not male) teachers a salary which is below the minimum wage while having them sign a contract stating that they receive the minimum wage.

To tackle this issue, Jordan's wage inspectorate has launched an annual campaign to inspect private schools which takes place at the beginning of each school year. The campaign aims to determine whether private schools around Jordan are complying with the minimum wage, paying salaries in a timely manner and complying with the terms of the employment contract signed between the teacher and the school. This campaign involves labour inspection visits to schools around the country to review their wage payment records and employment contracts, as well as interviewing teachers to verify the accuracy of information included in these documents. This campaign is publicized through local news media to raise public awareness around this issue.

Bonus systems

Since bonus systems concentrate on fixed-term and full-time employment, women are often at a disadvantage. Consideration should be given to concentrating on basic pay increases, which may be of greater benefit to women. Alternatively, bonus systems may be enlarged to include all workers regardless of status (including non-permanent workers), or extended to include grades of jobs which have not traditionally attracted bonus payments. It is important to ensure that bonuses are paid without discrimination, either direct or indirect.

Job classification

Jobs can be classified by categories or hierarchies. Women are often at the bottom of these categories. For an objective and fair assessment of jobs, evaluation methods must be free from gender bias and should aim at defining and valuing factors in an objective manner, without being influenced by feminine stereotypes or bound by traditional criteria, as already explained in the above session on pay equity. Consideration should also be given to providing special training for women to upgrade their qualifications and thus improve their access to higher graded jobs.

Pension schemes

Most women are in lower-paid employment and pension schemes which reflect salary levels which therefore leave women with lower pensions than men. More women than men may have interrupted work histories. Women may need to take career breaks or extended periods of leave to meet the demands of their family responsibilities. Alternatively, women may enter the workforce later after having had children. Workers with interrupted employment or delayed entry into the workforce are not likely to have sufficient funds in their pension scheme to receive adequate pension benefits upon retirement. Many women may be excluded completely from employer pension schemes. In general in the region, the retirement age for women is lower than for men, and many women working in the informal economy are not covered by pension schemes.

Housing benefits

In some countries, married women in particular are denied housing allowances on the basis that such benefits are only available for men. Housing allowances should be made available to women and men workers on an equal basis.

Transport benefits

Organizing transport can be stressful for women because of their family responsibilities or because it exposes them to potentially dangerous situations. Depending on the situation, employers could decide to arrange transportation for men and women workers to overcome lengthy travel time or dangerous situations, or where transportation is not reliable, such as at night. This is particularly important for women who may be subject to harassment and violence. Transportation costs are a deterrent for women to go to work in the region as in many cases transportation takes a large portion of the monthly salary, and many women do not see an advantage in working.

Medical benefits

Health insurance should be available to all workers, even those in non-permanent positions, most of whom are women. Wherever possible, healthcare provisions should be extended to cover workers' children. Benefits should include provision for a certain number of paid sick days per month, leave for medical check-ups or hospitalization, etc., and should cover all workers including non-permanent workers. The region has very low social security coverage, and many women do not have access medical benefits.

Hours of work

Hours of work for both men and women should be calculated to avoid differentiation and possible gender discrimination and to avoid the fact that basic hours encroach on unpaid

overtime at the request of the employer. In some cases, women's ability to work overtime is limited due to their family responsibilities or prohibitions on night work for women. One perspective is that women should have access to overtime and be paid for it. On the other hand, it may be more equitable to find ways to reduce the need for overtime and better distribute working hours.

Part-time work

Part-time jobs are still limited in the region, however, when available many of these jobs are held by women as they allow women to better combine their domestic responsibilities and the lack of child-care facilities. Part-time workers may be at a disadvantage compared to colleagues who carry out equivalent full-time work due to:

- Lower hourly rates of pay (this is contrary to the principle of equal remuneration for work of equal value)
- The impact on pension and other benefit schemes
- Ineligibility for various forms of leave
- Limited training and promotion possibilities
- The perception that a part-time worker is a less committed worker

Part-time work should not be treated as second-rate work. Part-time employees should receive the same benefits and have the same conditions as full-time employees. A number of benefits, such as medical care and access to welfare facilities, are not appropriate for pro-rating. Part-time workers should receive full benefits. Transport benefits and some other cash benefits are also unsuitable for systematic pro-rating and are more appropriately awarded to all workers on a needs basis.

Ensuring that part-time workers have rights regarding redundancy is also important. If part-timers are automatically chosen before full-timers for redundancy, women are likely to be disproportionately disadvantaged. This constitutes indirect discrimination and should be avoided through collectively negotiated redundancy schemes. Part-time workers should also have access to redundancy pay. The principle of part-time work is set out in the ILO Part-Time Convention, 1994 (No.175) which has not been ratified by any of the Arab states.

Flexible working time

Women may have difficulties keeping to fixed schedules because of family responsibilities. Management could be persuaded to be flexible on working hours. For example, core working hours of six hours per day could be arranged with flexible working hours on either side, as long as a certain number of hours are worked per week. In other cases, there could be an averaging of annual hours. One should be careful when introducing flexible working time schemes for improving productivity that these do not have a disproportionately negative effect on women. Very few companies in the Arab region favour flexible working time.

Night work

The attitudes of women and society toward night work are influenced by cultural, economic and national contexts. For example, views on the prohibition of night work for women vary. On the one hand, the removal of restrictions on women working at night could, in some contexts, be a way to reduce discrimination against women in the workplace because it opens up more

employment possibilities to them, often at higher rates of pay than day-time rates. An alternate view is that special protection for women in certain situations is necessary to keep them from excessively arduous working conditions and to protect their reproductive role. It may be the case in some circumstances that women working at night are not as safe as their male colleagues travelling to and from work and those women working at night would have overly long working days as they are likely to also bear the domestic burden during the day, sometimes in conjunction with other paid work. Most Arab countries have restrictions on women's jobs as previously mentioned in the case of Jordan. To work in some sectors, women might need the permission of a male family member.

In 1990 the International Labour Conference adopted a protocol to the 1948 Night Work (Women) (Revised) Convention which provides that the prohibition on night work for women can be lifted where employers' organizations and unions reach a suitable agreement in this regard. In the same year; the Conference also adopted the Night Work Convention (No.171) to protect night workers in general. This Convention has not been ratified by any Arab state.

Leave and family responsibilities

Annual leave

Many women and men with precarious contracts (i.e. temporary, part-time, piece-workers) are not entitled to any leave, and therefore work throughout the year without taking any. These workers should have at least the same pro-rata entitlement to leave as their full-time colleagues.

Compassionate leave

Compassionate leave is generally provided in the event of the death of a close family member. Provision may also be made for compassionate leave in the case of a serious accident or the hospitalization of family members.

Medical and sick leave

In some countries, due to a woman's special health needs resulting from menstruation, days off each month are provided. This is particularly important if some women have serious related medical conditions, or if work is particularly arduous. This paid leave may be one or two days per month and in general is included in collective agreements as leave days outside of annual leave or normal sick leave.

Paid educational leave and training leave

Women - including those working part time - should have access to the same training opportunities as men, such as training related to technological change. Training should be used as a means to redress existing biases in employment hierarchies. In the region many women are denied equal training opportunities sometimes on the basis of internal workplace rules and regulations. The ILO Paid Educational Leave Convention, 1974 (No. 140), recommends granting paid educational leave to workers for educational purposes for a specific period during working hours, with adequate financial entitlements. Iraq is the only Arab country that has ratified this Convention.

Jordan: Members of the Directorate of Women at the Ministry of Labour (MOL) mentioned a case of unequal treatment presented by a female university professor who alleged that a male professor could enjoy family allowances for his spouse and children when they joined him during his educational scholarship abroad, while she did not have the same treatment. The university claimed that the reason for this unequal treatment was because internal laws had been wrongly interpreted. A representative from the MoL responsible for private sector inspections explained that these kinds of complaints were rare due to social and behavioural reasons which do not allow women to demand their rights.

From ILO Working Paper, *A study on the gender pay gap in the private education sector in Jordan*, Beirut 2013 – Forthcoming.

Vulnerable groups

Employment in the informal sector and irregular work arrangements such as part-time or other temporary types of work, home-based work or contract labour goes hand in hand with low job security, and women's concentration in these jobs means they are disproportionately affected. Paid domestic work is often invisible. It is carried out in private homes, which are not usually seen as workplaces, and it is carried out for the benefit of private citizens who are not used to being regarded as employers (although, in the case of domestic work, that is what they are). As a result, domestic workers often lack legal and social protection, either because there are no laws regarding domestic work, or because laws that do cover domestic work are not followed.

Quite frequently, the law does not regard domestic workers as workers and, when they are referred to at all, it is to exclude them completely from the scope or to grant them lower levels of protection than those accorded to other categories of workers. There are cases where domestic work amounts to forced and indentured labour or slavery. When domestic workers are young, their employment may often involve exploitation, especially if they cannot go to school. Many children work in what is known as the worst forms of child labour and may be victims of human trafficking.

Discrimination based on sex plays an important role in the exploitation and abuse suffered by many female domestic workers, who are expected to be available any time and to work long hours as they are 'part of the family'. Moreover, traditional attitudes and prejudices about women as subordinates also contribute to widespread practices of coercion and violence. Domestic workers, home workers, and casual/temporary workers are, like other workers, entitled to respect for and protection of their human rights as enshrined in their the fundamental principles and rights at work.⁴⁰

In many countries, workers' protection is restricted to those economically active working people falling within the legal definition of "worker" and "workplace", or "employee", or

⁴⁰ ILO, *Decent Work for Domestic Workers in Asia and the Pacific - Manual for Trainers*, ILO, 2012, p. 24. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_184194.pdf

covered by collective agreements. Furthermore, in many countries, certain sectors of economic activity are excluded, either in law or in practice, or both, from the protective coverage of labour inspection services. Typically, this may apply to the so-called informal economy, or parts of it, particularly the rural informal economy.⁴¹

Labour inspectorates often do not adequately protect these categories of workers for various reasons: the law may confine their activities to particular types of workers rather than all workers; their efforts usually concentrate on formal-sector wage-based (urban) employment; resources are scarce, and many types of vulnerable workers are difficult to reach, thus requiring an extra effort to protect them.

Lack of sex-disaggregated data and of awareness on gender concerns in the world of work represent an obstacle for detecting and addressing the specific conditions and needs of women among these groups.

A gender analysis of vulnerable groups of workers could help labour inspectorates to better address this issue; in particular concerning child work, home workers, domestic workers, rural workers, forced labour and human trafficking.

Casual, temporary, seasonal and task workers

A worker may be hired in one or more of these categories, but the unifying thread is the lack of access to permanent status. Although some of these workers may work only for limited periods, a large percentage is hired on a more or less permanent basis but never receives bonuses, leave, benefits or increases in wages. Many women workers have non-permanent status even in cases where they are employed 12 months a year for several years, this is very much so in the education system where teachers' contracts are stopped during the summer. Labour inspectors can play an important role in detecting disguised employment relationships and abuses, and advocate for more permanent and less precarious labour contracts.⁴²

Home-based workers

Millions of women throughout the world are home-based workers. They may work for an employer or intermediary or they may produce goods which they sell themselves or through an agent. Many of these workers are "invisible" or unknown to the authorities. They are often excluded from legislation and organizing efforts. Home-based workers are often at a disadvantage for a number of reasons: their pay and conditions are generally inferior to those of their counterparts in factories or other workplaces and the employment relationship is often precarious. Home-based workers tend to have few employment rights and very little social security protection. Where home-based workers are paid at a piece-rate, their pay may be significantly less than that of a worker paid at an hourly rate to perform the same work. Health and safety conditions may be poor in the home.

An additional concern regarding home-based work is the potential involvement of children. Home workers may be compelled to call upon their children for help, thus contributing to the

⁴¹ See: ILO/ITC, *Dealing with vulnerable groups of workers*, Turin, 2010. Also see: ILO/ITC, *Building modern and effective labour inspection systems*, Training Package Module 9, Turin, 2010.

⁴² For more information on this topic, please consult: ILO, *Labour inspection and the employment relationship*, 2013 http://www.ilo.org/labadmin/info/pubs/WCMS_217603/lang--en/index.htm or ILO, *Labour inspection and undeclared work in the EU*, 2013 http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_220021.pdf

spread of child labour. Ensuring that home workers are adequately protected is a great challenge for labour inspectors.

Child labour

The ILO has a strong normative base for its work on the elimination of child labour. The Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), urge immediate action against the worst forms of child labour, such as the use of any girl or boy under the age of 18 in forced or compulsory labour such as armed conflict; prostitution, the production of pornography, or for pornographic performances; the production and trafficking of drugs; and work that is likely to harm the health, safety or morals of children.

While child labour affects both boys and girls, many girls are likely not accounted for in statistics on child labour. Child labour may in fact have a more significant impact on girls, reinforcing gender discrimination and resulting in a denial of education and other opportunities. Child labour of young girls deserves particular attention by labour inspectors because of the nature of the work (often indoors, keeping them isolated and exposed to violence and sexual abuse) and the conditions under which they work (often working long hours in the home with very little pay).

Convention No. 182 specifically provides for member states to take account of the special situation of girls. Labour inspectors should thus take special steps to deal with this specifically vulnerable group. These steps could include:

- setting priorities according to age and sex
- considering how hazardous the work is in lieu of the gender of the child
- taking into account the situation of girls and gender discrimination throughout the process

Forced labour and human trafficking

Women workers are particularly vulnerable to forced labour and trafficking, especially in economic sectors such as textiles and garments or domestic work or prostitution. Special treatment may include workplace inspections being conducted by a female labour inspector if the workplace employs many women, or that a female labour officer deals with a female worker's claim, particularly if it involves sexual harassment or violence.

Anti-human trafficking law – Jordan 2009

The law paved the way for the creation of an anti-human trafficking commission to oversee its implementation. The Commission is affiliated to the Ministry of Labour and includes officials from the police and the Ministry of Justice. This legislation initiated a joint labour inspector and police anti-trafficking investigation unit, and the employment of a human trafficking office within the Public Security Directorate's (PSD) Criminal Investigation Unit. These joint efforts improve identifying victims of trafficking and related exploitation among foreign domestic workers, foreign laborers in the Qualified Industrial Zones, and foreign women in prostitution.

Persons with disabilities

One out of every seven people in the world—or some 1 billion people—has a disability. Between 785 and 975 million of them are estimated to be of working age, but most do not work. While many are successfully employed and fully integrated into society, as a group, persons with disabilities often face disproportionate discrimination, poverty and unemployment. The right to employment for persons with disabilities is clearly stated in the UN Convention on the Rights of Persons with Disabilities (UNCRPD)⁴³ as well as in the ILO Convention on Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No.159). The principle of reasonable accommodation is one type of special measure that reflects the idea that employers may be expected to make a reasonable effort to accommodate the needs of a particular group of people such as those with disabilities, older workers or workers following a particular religion. Reasonable accommodation means necessary and appropriate modification and adjustments that do not impose a disproportionate or undue burden on the employer. The UNCRPD considers denial of reasonable accommodation as a form of discrimination in the world of work.

The Americans with Disabilities Act requires an employer with 15 or more employees to provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship. A reasonable accommodation is any change in the work environment or in the way a job is performed that enables a person with disabilities to enjoy equal employment opportunities.

There are three categories of reasonable accommodations:

1. Changes to a job application process.
2. Changes to the work environment, or to the way a job is usually done.
3. Changes that enable employees with disabilities to enjoy equal benefits and privileges of employment, such as access to training.

ILO, *Equality and Non-Discrimination at Work in Southeast Asia – Exercise and Tool Book for Trainers*, p.58
2011, p. 46

Harassment and dignity at work

As discussed above, sex-based discrimination in the workplace is when a person is treated less favourably than a person of the opposite sex would be treated in the same or similar circumstances. For this reason, sexual harassment is considered to be a manifestation of sex-based discrimination at the workplace.

Broadly speaking, sexual harassment is unwanted conduct of a sexual nature. Victims, who are most often women, suffer more because of societal attitudes and their often precarious employment position. Many women find it difficult to complain or seek support for fear of jeopardizing their job. Sexual harassment can result in biased job evaluations poor personal recommendations, demotion, resignation, dismissal or transfer. It may create an intimidating and thus unproductive working environment. It can also result in stress related illness.

⁴³ United Nations Convention on the Rights of Persons with Disabilities, <http://www.un.org/disabilities>

Many countries have adopted some form of legislation either through specific legal provisions on sexual harassment or by addressing it under another broader statute such as human rights or equal opportunity and treatment, for example in non-discrimination, labour law, contract law, tort or personal injury law, or criminal law, or by way of judicial interpretation or referring to constitutional provisions. In addition to this, numerous trade unions and several employers' organizations as well as individual employers have made statements against sexual harassment, or developed workplace policies that address the issue in tandem with national legislation.

Labour inspectors play an important role in both, ensuring law enforcement – where legislation exists- and providing advisory services to social partners to develop policies and measures in the workplace that prevent and deal appropriately with sexual harassment. Labour inspectors should carefully assess and address any risk of harassment and violence in the workplace. The following acts are examples of behaviour which may, under certain circumstances, be considered sexual harassment: sexual advances or propositions; offensive questions or comments about physical appearance or sex life; lewd comments; sexual jokes and insults; leering; the display of pornographic material designed to embarrass or intimidate an employee; condescending or paternalistic remarks; inappropriate touching, pinching or cornering; sexual assault and rape. Sexual harassment can come from anyone: a supervisor, a professor, a co-worker, a client, a vendor, or a contractor. “Intent vs. Impact”—it does not matter what a person’s intent was in making the comment, gesture, etc. It is the impact on the other person that matters.

For a minimum level of protection a workplace policy should specify that:

- Sexual harassment will not be tolerated or condoned and is a disciplinary offence.
- Management is responsible for ensuring that the workplace is free from sexual harassment and must take prompt corrective action to stop sexual harassment when it occurs.
- A worker who is being sexually harassed can seek redress and remedy through the grievance procedure or a special procedure for sexual harassment complaints.
- Complaints will be dealt with promptly and in confidentiality.
- A complainant may request not to have to work with an alleged harasser. If this involves a temporary transfer, it is the harasser, not the complainant, who should be moved.

Although legal definitions vary from country to country, sexual harassment is essentially unwanted conduct of a sexual nature.

Some different definitions of sexual harassment	
European Union	Unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct.
Commonwealth TUC	Any unwanted sexual attention. That means any unwanted verbal or physical advance or insulting statements. These actions cause the victim discomfort or humiliation and can affect job performance.
Tunisia	Law No. 2004-73, amending the 1913 Penal Code to criminalize sexual harassment and certain offences "against morality." The provision relating to sexual harassment defines the offence as persistent harassment of another person through humiliating or offensive actions, words or gestures that are intended to cause the victim to submit to one's own sexual overtures or to those of third party or to weaken the victim's efforts to resist those overtures. The provision penalizes offenders with imprisonment of one year and a fine of 3,000 dinars, and doubles the punishment where the victim is a child or a person with physical or mental disabilities.
Algeria	Law No. 04-15 defines sexual harassment as abusing the authority conferred by one's function or profession in order to give orders to, threaten, impose constraints or exercise pressure on another person for the purpose of obtaining sexual favours. A person convicted of this offence is subject to imprisonment of two months to one year and a fine of 50,000 to 100,000 dinars.
Saudi Arabia	In April 2013, the Ministerial Council in Saudi Arabia endorsed the decision to enact measures to protect victims of violence, prosecute perpetrators and ensure the protection of officials and individuals reporting violence. According to available resources the new regulation adopts a definition of violence that is comprehensive. Hence, "harm" is defined as: "Any form (threat or otherwise enacted) of exploitation, physical abuse, psychological or sexual, including harassment, which is committed by a person against another person that s/he has power over, authority or responsible for, or if they are related through family ties or through financial dependency. Ill-treatment includes the failure of a person to fulfil his duties or obligations in the provision of basic needs for another member of his/ her family who he is responsible for according to Sharia or national regulations."

An ILO initiative to tackle sexual harassment in Jordan's garment factories

In 2011, allegations were made of widespread rape being committed against workers at one of Jordan's largest clothing factories. Although the allegations were not substantiated, reports of unwanted sexual advances towards workers are common across the global garment manufacturing sector. The ILO's own investigation found that many workers had very little understanding of what constitutes sexual harassment – even though they were concerned about it. As a result, the ILO launched a sexual harassment prevention awareness project with several factories, training workers, supervisors and senior management how to identify, prevent and report instances of sexual harassment. ILO advisors also worked with senior management in these factories to put in place policies and procedures that allow workers to report sexual harassment and seek redress. More information is available at: <http://betterwork.org/jordan/>

Violence in the workplace

Violence in the workplace may occur between co-workers; workers may also be at risk of violence from others such as customers or clients. Violence can be psychological or physical to different degrees. 'Any action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, injured in the course of, or as a direct result of, his or her work' constitutes workplace violence (ILO, 2003).⁴⁴

A variety of behaviours constitute violence including abuse, assault and threats:

- Abuse is any behaviour that departs from reasonable conduct and involves the misuse of physical or psychological strength.
- An assault generally includes any attempt at physical injury or attack including actual physical harm.
- Threats include the menace of death or the announcement of an intention to harm a person, or damage his or her property.

Harassment, bullying and mobbing are particular forms of workplace violence. "Bullying" has been defined as "offensive behaviour through vindictive, cruel, malicious or humiliating attempts to undermine an individual or groups of employees. These persistently negative attacks on their personal and professional performance are typically unpredictable, irrational and often unfair."⁴⁵ Recently, "mobbing" has been recognized as a form of workplace violence, involving ganging up on an employee and subjecting him or her to psychological harassment.

Many women do work alone and may face increased risks of violence - including sexual - attack. These risks should be carefully assessed by labour inspectors. Where women travel alone in the course of their work, employers should ensure that they have been trained in the precautions to take when using public transport, when parking vehicles and when returning to parked vehicles.

⁴⁴ ILO, *Code of practice on workplace violence in service sectors and measures to combat this phenomenon*, Geneva, 2003, p. 4.

⁴⁵ AAVV, *Preventing work-related violence*, ILO, Geneva.

As mentioned in the chapter on working conditions (wages and benefits), in dangerous situations employers should consider providing transportation, especially at night, to prevent the risk of harassment and violence against women workers.

In 2011, the Palestinian Central Bureau of Statistics conducted a study in the occupied Palestinian territory on gender-based violence in the workplace in partnership with the ILO and the Institute of Women Studies at Birzeit University. The objective of the study was to highlight the issue at the national level and to influence future policy-making. Findings include:

Out of the 853 women who responded to the survey, 78.2 per cent said they had not experienced any form of violence at work and 22.8 per cent said they had experienced some form of violence during the last 12 months. Young women aged between 25 and 29 were the most vulnerable age group, with 29 per cent reporting that they had experienced some form of violence at work. They were followed by women aged 24 and under, of which 18 per cent had experienced some form of violence in the workplace.

ILO, *Gender-Based Violence in the Workplace: An overview from the occupied Palestinian territory, 2013*
http://www.ilo.org/beirut/publications/factsheets/WCMS_210887/lang-en/index.htm

Psychosocial risks

Increasing attention is being paid by labour inspectors to the incidence of psychosocial risks, stress and work-related violence. According to a survey conducted in the European Union, these “new” forms of risk (particularly stress) are ranked one percentage point below accidents in terms of perceived seriousness by European companies. Stress in the workplace can generate a significant increase in anxiety and cardiovascular disease, as well as a high rate of absenteeism, which in turn exacerbates the problem as new additional tasks are imposed on staff members who would otherwise not have been affected.

Women workers are susceptible to such risks particularly in relation to stress related to balancing work and family responsibilities, concerns about job security, and situations of sexual harassment or workplace violence. Many enterprises, aware of the scale of the problem, have implemented preventive management systems, although these are generally internal programmes based on negotiation and dialogue.

CHAPTER 3: Maternity, family responsibilities and gender equality at work

Maternity protection and work-family balance are essential to promoting gender equality at work and advancing decent work for women and men. There are several areas related to maternity and family responsibilities that labour inspectors can deal with, according to their different functions and the legal mandate (the control and enforcement of legal provisions, advice, awareness raising, reporting to competent authorities).

This chapter⁴⁶ gives an overview of these issues and prepares the ground for a more practical session on how labour inspection can tackle these issues.

The main areas covered by this chapter are:

1. Maternity leave
2. Rights of pregnant and nursing women
3. Maternity protection in Arab states

Maternity Leave

Adequate maternity leave (a minimum of 12 weeks) is important to ensure that women have sufficient time off from work to let the body recover, to adapt emotionally to the changes resulting from childbirth and to properly nurture their children. Maternity leave should also be available for miscarriages and stillbirths. Protection against discipline or dismissal for reasons related to maternity or family responsibilities should be ensured. Laws and/or collective agreements should include provisions to ensure that pregnant and nursing women are able to continue to work and cope with their pregnancy and meet their family responsibilities. Provisions could include: flexible working hours, additional breaks, lighter work and nursing breaks. Temporary, part-time and piece-workers should have at least the same pro-rata entitlement to leave as their full-time colleagues. Maternity is not an illness and therefore it should be clearly distinguished from sick leave. Also annual leave should not be included as part of maternity leave.

Maternity protection for women has been a key area of concern for the ILO since its foundation in 1919. The ILO has adopted three Conventions on this subject (No.3, 1919; No. 103, 1952; No. 183, 2000), together with their corresponding Recommendations (No.95, 1952; No.191, 2000). Over time these international labour instruments have expanded the entitlements of maternity protection at work and provided detailed guidance to orient national policy and action. The period of maternity leave required under the Maternity Protection (Revised) Convention, 1952 (No. 103), is 12 weeks – a period determined with the health of the mother

⁴⁶ The contents of this chapter are largely based on the following documents: ILO, *Gender Equality; a guide for collective bargaining*, main authors S.Olney, E.Goodson, K.Maloba Caines, F.O'Neal, Geneva, 2003; and from ILO, *Labour inspection and gender equality*, Geneva, 2012. All examples refer to S.Olney's presentation delivered during the training session on gender equality, discrimination and labour inspection, Amman-Jordan 14 August 2013.

in mind. The Maternity Protection Recommendation, 1952 (No. 95) and the Convention No. 183, 2000 call for maternity benefits to be paid at full pay for a period of 14 weeks.

Convention No. 183 and Recommendation No. 191 comprise five core elements of maternity protection:

- ✓ **Maternity leave** - the woman's right to a period of rest from work in relation to pregnancy, childbirth and the postnatal period;
- ✓ **Cash and medical benefits** – the mother's right to cash benefits during her absence for maternity and health care related to pregnancy, childbirth and postnatal care; health protection in the workplace for the mother and unborn child during pregnancy, as well as during breastfeeding;
- ✓ **Employment protection and non-discrimination** – guarantee of the woman's employment security and the right to return after taking maternity leave to the same job or an equivalent one with the same pay; moreover, a woman cannot be discriminated against while at work or while searching for work because of her reproductive role;
- ✓ **Breastfeeding arrangements** - to help workers to breastfeed or express milk in the workplace for a certain period after returning to work.⁴⁷

Key points

- Maternity protection at work aims to ensure that women's economic activities do not pose risks to their health and that of their child, and to ensure that women's reproductive function does not compromise their economic and employment security.
- Maternity protection at work is for all women, in the formal and informal economies.
- Maternity protection at work is comprised of different elements: maternity leave, cash and medical benefits, health protection in the workplace, employment protection and non-discrimination, and paid breastfeeding breaks.
- Childcare is essential for creating effective equality of opportunity and treatment for women and men workers.

ILO, *Maternity protection resource package from aspirations to reality for all*, Geneva 2012, p.16
http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_193968/lang--en/index.htm

Rights of pregnant and nursing women

Laws and/or collective agreements include provisions to ensure that pregnant and nursing women are able to continue to work and to cope with their pregnancy and meet their family responsibilities. Provisions could include:

- flexible working hours
- shorter working hours
- additional rest breaks
- lighter work

⁴⁷ ILO, *Maternity protection resource package from aspirations to reality for all*, Geneva 2012, p.16
http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_193968/lang--en/index.htm

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- a move from night work to day work
 - safe work
 - nursing breaks

Pregnant women and nursing mothers should be permitted to avoid heavy physical work which may endanger the pregnancy, and to choose alternative positions such as being able to sit comfortably rather than standing all day, or alternate between sitting and standing.

Working with toxic materials and chemicals can be harmful and may damage an unborn child; lifting heavy weights and working with vibrating machines should also be avoided.

Nursing breaks should be frequent and long enough to enable mothers to continue to breast-feed their children. Provision can be made for the mother to have the option of combining the breaks so that a longer break can be taken at the beginning or end of the day. Breaks should be treated as paid working time. Provision of childcare facilities or a room for breast-feeding on or near the workplace reduces the time needed for nursing breaks.

Maternity cash and benefits

In most countries where social security systems are developed, maternity cash benefits are paid by the state. In others, the employer pays for maternity leave or supplements state-provided maternity benefits. Maternity cash benefits should be at a high enough level to sustain the mother's income during her leave. While most Arab states in North Africa have included maternity provisions in their social security schemes, most countries in the Middle East provide for the payment of the salary of a female worker during the maternity leave period in their labour codes under employers' liability, as is the case in Bahrain, Saudi Arabia and Yemen. Jordan was in this category until it introduced a maternity insurance scheme under its reformed social security system in 2011.⁴⁸

Miscarriage and stillbirth

Stillbirth is the term used for a foetal death in late pregnancy. Miscarriage is the term used for foetal death in early pregnancy. The point in pregnancy at which a miscarriage becomes a stillbirth is determined by the laws and policies of each state. In a number of countries a stillbirth is considered as a birth, entitling a woman to the same benefits as a live birth. This is not the case for miscarriage.

The ILO recommends that appropriate leave and health care is made available for both miscarriage and stillbirth, especially considering the emotional stress suffered by the woman and family members in such circumstances. Legislation in the region does not expressly take these situations into consideration.

Job security

It should be ensured that maternity does not result in reduced job security. The following provisions, in particular, should be contemplated:

- The right to return to the same or a similar job after maternity leave (this should include cases of negotiated parental leave and extended leave)

⁴⁸ ILO-UNDP, *Rethinking economic growth: towards productive and inclusive Arab societies*, Beirut 2012, p. 89

- No interruption in seniority during leave
- No loss of annual or sick leave
- The option to return to part-time work at a woman's request
- The right to return to full-time work after a period of part-time work
- No victimization or loss of job due to pregnancy
- The reassignment to non-hazardous tasks
- Special protection for pregnant women working on a fixed-term contract. (Non-renewal of a contract for a job of a continuous nature should be considered as dismissal and hence prohibited.)
- The prohibition of pregnancy testing for recruitment or while on the job

Paternity leave

Provisions should be made to ensure that the father has time to care for his family and to meet the needs of the mother and new baby. The provision of paternity leave is also an important way to promote the sharing of child-care responsibilities between men and women. Legislation in the Arab states is weak in this area, only Morocco stands out in this respect. Its labour code (Article 269) provides three days of paternity leave at full pay. The U.A.E. foresees three days of paid paternity leave but only in the public sector.

Paternity leave provisions for employees in the United Nations

As part of the United Nations' efforts to promote gender equality and work-life balance, all male employees of the United Nations are entitled to four weeks of paternity leave, which should be taken either as four continuous weeks or separate full weeks. Paternity leave must be taken during the first year after the child's birth and twelve months must elapse between the end of one paternity leave entitlement and the start of the next one. The paternity leave cannot be exchanged for financial compensation.

Parental leave

It is usually taken by either or both parent either consecutively or simultaneously after the standard maternity leave is exhausted, and may be available at any time until the child reaches a certain age. Parental leave is not explicitly included in labour laws in the region.

Family leave

Living with one's extended family is not always a common feature in many cultures. As a result, workers may need to take time off to stay at home with a sick child, or to care for another close family member. This is particularly important for small children as well as the elderly or people with disabilities who depend on the worker for their care. These relatively short periods of time off could also be accommodated through the use of flexible working time arrangements.

Protection against discipline or dismissal for reasons related to family responsibilities should be ensured as emphasised in the ILO Workers with Family Responsibilities Convention, 1981 (No. 156) that has only been ratified by Yemen.

Maternity protection in the Arab states

In comparison to other regions of the world, the Arab states have weak maternity protection measures.⁴⁹ Only Morocco has ratified Convention 2000 (No. 183). The lack of support for this important Convention indicates that while labour legislation permits the employment of women, legislation does not adequately address women's needs.

Table 6 – Key national provisions for maternity protection in Arab states

Country	Duration*	Wages	Source of funding
Bahrain	60 days	Full, first 45 days; unpaid thereafter	Employer
Egypt	3 months	Full	75% Social Security; 25% Employer
Iraq	62 days	Full	Social Security
Jordan	10 weeks	Full	Social Security
Kuwait	70 days	Full	Employer
Lebanon	7 weeks	Full	Employer
Libya ^{a/}	50 days	Half	Employer
Morocco	14 weeks	Full	Social Security
Qatar	50 days	Full	Employer
Saudi Arabia ^{b/}	10 weeks	Half or full	Employer
The Sudan	8 weeks	Full	Employer
Syrian Arab Republic ^{c/}	120 days	Full	Employer
Tunisia	30 days	Two thirds	Social Security
United Arab Emirates	45 days	Full	Employer
Yemen	60 days	Full	Employer

Sources: Adapted from ILO (2010b), pp. 93-102.

* Days indicate working days.

Notes:

^{a/} Self-employed women receive full wages funded by Social Security.

^{b/} Percentage of wages depends on duration of employment.

^{c/} 120 days leave are granted for the first child.

According to table 13, maternity leave measures are incongruous across the region, with wide variations in the length of this entitlement for mothers. A good number of Arab countries provide very short periods of paid maternity leave, such as Bahrain, Qatar, Libya, the United Arab Emirates, Tunisia, Yemen, the Sudan, Saudi Arabia, Lebanon, Kuwait and Jordan. The case of Tunisia is puzzling because, although legal rights for women in this country are among the most advanced, women receive only 30 days of paid maternity leave. The only countries that provide adequate paid maternity leave are Egypt (12 weeks), Morocco (14 weeks), and the Syrian Arab Republic (17 weeks).

Another important aspect of maternity protection policies is the source of funding. As illustrated in the table above, 11 Arab states do not pay for maternity leave, and it is the employer who is solely responsible. Given that firms are driven by making profits, employers are, therefore, discouraged from employing women as they do not want to incur extra costs.

⁴⁹ ESCWA, *Addressing barriers to women's economic participation in the ESCWA region*, New York, 2012, p.22

Only Egypt (liability shared equally between state and employer), Iraq, Jordan, Morocco, and Tunisia have social security provisions for paid maternity leave.

The implications of a short maternity leave on the economic participation of women require greater attention. Surely surveys are the best tool for identifying the impact of a short maternity leave on the decisions of women to remain at work after becoming mothers. However, it is reasonable to suppose that for a woman who is the breadwinner in her family, a short period of paid maternity leave would put pressure on her to take one of the following decisions:

1. Extend her leave at her own expense.
2. Find alternative care for her newborn when maternity leave expires and return to work.
3. Abandon work after childbearing and focus on her new demanding role, if can afford to do so.

A distinction must be made between first-time mothers who have no prior experience of child rearing and women who are already mothers. It is advisable to allocate more time and support to first-time mothers as they adjust to new and demanding family obligations. The policies of the Syrian Arab Republic include different maternity leave measures based on number of childbirths. With the majority of children in the region remaining without pre-schooling care and education, this enormous challenge and the burden borne by women rather than men must not be underestimated. Therefore, sound legislation for women's employment is important and a lack of supporting legal measures can constrain the participation of women in the labour force.

CHAPTER 4: Practical exercises

Exercise 1: Definitions and difference between gender and sex⁵⁰

Objective: To learn about the difference between sex and gender and to better understand how gender roles in society are developed, how this may result in gender biases, and how these biases can be overcome.

Tasks: Hang a sign on one side of the room that says “Gender” and one on the other side of the room that says “Sex”. Copy the handout, which includes statements with female and male biological characteristics (innate traits) and stereotypical behaviours (acquired traits). If needed prepare additional statements so that there is at least one per participant. Cut up handout so that there is one statement per strip of paper. Place all strips in a box.

Time: 20 min.

Examples of statements:

- Women are gentle, men are tough
- Women give birth to babies
- Women are better caretakers of families and children than men
- Only women can breastfeed babies
- Men are better at science than women
- Cooking comes naturally to women

Ask participants to each pick a strip from the box, read it silently and decide whether the characteristic/behaviour in the statement is gender or sex. Go and stand near the ‘GENDER’ or ‘SEX’ sign. Participants should decide for themselves without discussing it with others.

Once all participants have moved to either the “gender” or “sex” side of the room, ask each to read aloud their statement and explain why they believe the behaviour/characteristic in the statement is determined by the biological or social differences between men and women.

Encourage the participants to discuss and debate the following questions:

- Are there exceptions to any of the statements?
- How does society promote images of men and women?
- What are institutions that promote stereotypes and reinforce certain behaviours? (family, media, education, economic, legal and political institutions)
- How have things evolved? (i.e. working outside the home is no longer considered to be only a male characteristic)

⁵⁰ Adapted from Rwandan Ministry of Gender and Family Promotion: *Gender Training Module*, 2011.

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- What are the consequences of different behaviour for girls/women and boys/men? How do societal constructions of men and women result in gender biases?
 - What else can be done to promote positive change and eliminate stereotypes and bias?

Key Messages:

- Women and men are born with a few different biological attributes, such as sexual organs and hormones that determine their reproductive functions, for example, men produce sperms, and women get pregnant and give birth.
- Except for the reproductive functions, the differences between the two sexes in most other areas in life (i.e., behaviours, attitudes, social and family roles) are largely influenced by society.
- The term gender refers to these social differences and relations between men and women. Boys and girls learn about gender rules, relations and roles while they are growing up. These vary widely between and within societies, and from one generation to another.
- Ideas and expectations about the gender characteristics, abilities and roles of women and men – about femininity and masculinity – may be flexible or rigid, and equal or unequal. They may limit the opportunities and potential of either or both sexes, but most often of women (usually because women have more workload and less decision-making power).
- If women and men want to promote fairness and justice, they can change their ideas, if they want to.

Exercise 2: Approaches to promoting gender equality in the workplace in Arab states

Objective: To help participants reflect values of gender equality and anti-discrimination in the workplace.

Task: Brainstorm – ask participants to identify real life examples of gender inequality in the workplace and write them up on a flipchart. Then ask participants to:

- Identify several factors that may be the root causes of each example of inequality.
- Identify ways to address the problem (formal approach, protectionist approach, corrective approach).

Time: 20 min.

Key Message: Discrimination is common and is part of our life experience. It is important to be informed and in your capacity be equipped with tools to be proactive.

Exercise 3: Writing non-discriminatory job advertisements⁵¹

Objective: To identify discrimination in job advertisements and rewrite them in a non-discriminatory manner.

Task: Provide participants with copies of job advertisements. Several examples are provided below. Discuss.

Time: 35 min.



A physiotherapy centre seeks a female physiotherapist – qualified or willing to be trained. To apply, contact telephone number: 078/ 5466895.

(Source: AlWaseet newspaper –Jordan, 27th September 2013)

⁵¹ Adapted from ILO, *Equality and Non-Discrimination at Work in Southeast Asia – Exercise and Tool Book for Trainers*, p. 93-99, Bangkok, 2011.



Vacancy for a female office manager's assistant to work in a Jordanian company. Candidates should be attractive, well-spoken, skilled in typing and using computer programmes, capable of reading and writing in English, hold at least a two year postsecondary diploma. No experience needed. To apply, send your CV along with a personal photograph to fax number: 06/ 5818851 or email info@bouvardia-invest.com.



Vacancy for a female graphic designer. Skilled in the use of Corel Draw and Adobe Illustrator programmes. With or without experience. For employment in a company in Swiefieh magnaticcards@yahoo.com, Tel. 06/ 5854277.



Vacancy for a male marketing officer. Candidates should own a car to be used for marketing various Chinese products. To be paid by commission or receive a salary, subject to agreement with the company. Contact by calling telephone number: 078/ 5526471.

(Source: AlWaseet newspaper -Jordan, 27th September 2013)

Step 1 - Identify discriminatory and non -discriminatory criteria

Ask participants to examine the job advertisements and identify which of the listed criteria are required for the jobs and which could be considered discriminatory. List and discuss them on a flipchart with the heading “non-discriminatory” and “discriminatory.”

Step 2 - Identifying discriminatory requirements as proxies for desired abilities

Continue the discussion by asking participants what they think the employers had in mind when writing these job advertisements. Point out that in these job advertisements it seems that instead of describing the job requirements objectively in terms of the abilities and skills needed for the job, the employers made assumptions about what kind of people might have these abilities. Point out that from a non-discriminatory point of view it is very important not to make assumptions, but to assess all applicants’ suitability for the job based on his or her individual abilities and skills. Conclude that certain requirements listed in the job advertisements are clearly not related to the job and would exclude many good applicants.

Step 3 - Re-write the job advertisement

Ask participants to rewrite the discriminatory job advertisements, describing the skills, abilities and experiences needed in the job in a non-discriminatory way. Emphasize that the job advertisements should include a job description stating the job contents and key tasks. The requirements should reflect the actual job contents and be written in an objective manner.

Key messages: Employers can set selection criteria for the skills, qualifications and ability, effort, responsibility and working conditions required for a job, and can choose the applicants who are most suitable and qualified for the job. Employers should not discriminate by excluding possible applicants on the basis of assumptions about personal characteristics that are not job related.

Exercise 4: Equal pay for work of equal value – job evaluation (simple)⁵²

Objective: To discuss the concept of equal pay for work of equal value and to test the use of objective job evaluation criteria.

Task: Prepare a flipchart paper with a job evaluation table for each group. Draw the tables as in **Handout 2**. Give each group one flipchart with the job evaluation table and one marker pen. Introduce the exercise by explaining that equal remuneration for work of equal value is a concept that is not always easy to understand. There is broad agreement that pay equity between men and women is fair and just, and that equal pay must be provided to men and women who do exactly the same or very similar work. However, more understanding is needed on fairness in pay in more usual labour market situations where women and men are found in jobs that are different but of equal value. This exercise introduces the concept of equal pay for work of equal value and demonstrates what kind of evaluation criteria can be used for an objective job evaluation of two jobs. Divide participants into small groups. Provide **Handout 1** to all groups and ask them to read the case study. You may also ask a volunteer to read the case study aloud to all participants.

Time: up to 1 hour.

Handout 1. Case study: Lucy – Librarian and union leader

Lucy Parsons worked for the city as a Librarian. As the Union Steward, she was getting ready for negotiations with the city by looking at the pay schedules for all the different departments. One thing grabbed her attention. The lowest paying job for the Department of Public Works (DPW) paid more than the highest paid job in the Library. Lucy asked some of the people with high seniority why that was. Basically she was told it had always been that way because mainly men worked for the DPW and mainly women worked in the library. "That is not right," Lucy thought, "jobs should not be paid according to which sex works on them."

All union people know that a basic way to achieve fairness is to apply the rule "Equal Pay for Equal Work." This means that people doing the same job should receive the same base pay. There may be some differences added to people's pay to reflect working second or third shift, or bonuses added for years of service, but the base pay is equal. This prevents management from playing favourites and discriminating against workers. Lucy's problem is about "Pay Equity" which means equal pay for work of equal value. This means that jobs can be totally different but when you add up everything that is required for these jobs, they are equal and have the same value. The fight for pay equity has shown that in many cases the basis of the difference in pay is because of discrimination, either against women or ethnic or religious minorities. In the past many companies openly based job rates upon sex. For example, in the USA, the steel industry was notorious for only hiring African-American male workers for the worst, most dangerous jobs, which were the lowest paid. Job evaluation allows for the comparison of different jobs to determine the appropriate pay or wage. Job evaluation consists of analysing the content of a job by breaking it down into job components and assigning value to these components. In Lucy's situation, the city has written job evaluations that give points

⁵² Adapted from ILO, *Equality and Non-Discrimination at Work in Southeast Asia – Exercise and Tool Book for Trainers*, p. 104-106, 2011.

on a scale of 0 to 5 for the different job elements criteria such as skills, effort, responsibility and working conditions. Five points means that working conditions are very bad or a high level of education is needed, while zero or one point mean good working conditions or very little education needed.

After reading the case explain that in this exercise the groups are requested to assess the value of the two jobs, the librarian and the refuse collector, in the case study: Explain that job evaluation means rating various job elements of two or more jobs based on objective criteria to assess the value of the jobs. The evaluation criteria are usually related to skills and abilities, responsibility, effort and working conditions of the jobs in question.

Give **Handout 2** to the participants and ask every group to:

- Conduct an evaluation of the two jobs by filling in the job evaluation sheet on the flipchart.
- Discuss whether or not they think the two jobs should be paid the same wage.
- Select a spokesperson who will present the outcomes of their job evaluation to the plenary.

Handout 2. Job evaluation sheet

Most job evaluation systems rate jobs based upon different job elements to assess the value of a job. A typical set of job evaluation elements is given in the table below.

Instructions:

1. Complete the job evaluation sheet.
2. Prepare a short presentation as if you were Lucy on: How did you score the two jobs (criteria used) and whether your group thinks the two jobs should be paid the same or differently.

Sample Job evaluation comparison sheet

Criteria*	Librarian	Garbage collector
Knowledge & education level		
Experience		
Initiative and ingenuity		
Physical demand		
Mental or visual demand		
Responsibility for equipment or process		
Responsibility for material or product		
Responsibility for safety of others		
Responsibility for work of others		
Working conditions, and hazards		
Complexity of duties		
Importance of not making errors		
Contact with others		
Ability to work with confidential data		
Total points		
* Points are given on a scale of 0-5: 0 is not important; 5 means very important.		

When the groups are ready, ask the spokesperson from every group to show their flipchart and present the outcome of their discussion on a few job elements (three minutes maximum per group). After the presentations compare the job evaluation sheets of the groups and comment on the results. Usually the job of the librarian scores higher than the job of the waste collector. The men engaged in garbage collection get more points for bad and dangerous working conditions, but the female librarians get more points for job elements such as clerical, computer and archiving skills, years of education and communication with the public.

Distribute **Handout 3** and introduce the outcomes of the real case. In the real case, the job evaluation scores of the two jobs are almost equal, with the librarian scoring slightly higher in total than the garbage collector. Lucy and her colleagues in the real case find that there is discrimination in pay. Ask for more comments and answer any remaining questions.

Handout 3. Responses: Job evaluation results

Lucy and the other librarians sit down and take a look at the job evaluations. The men on the refuse trucks get more points for bad and dangerous working conditions but the women get more points for having clerical skills, library skills, education, and for working with the public. When they add up the points that each job was allotted they find out that the two jobs have just about equal points. Why the pay difference? Discrimination. There is no other answer. Many years ago when the pay was set, the people in charge decided that “women’s work” was not worth as much as “men’s work.” This is a good example of what is meant by “pay equity for jobs of equal value.”

Results: Job evaluation comparison sheet

Criteria*	Librarian	Garbage collector
Knowledge & education level	4	2
Experience	3	1
Initiative and ingenuity	2	2
Physical demand	1	5
Mental or visual demand	4	2
Responsibility for equipment or process	2	4
Responsibility for material or product	3	2
Responsibility for safety of others	1	5
Responsibility for work of others	2	0
Working conditions, and hazards	1	5
Complexity of duties	4	2
Importance of not making errors	2	2
Contact with others	4	2
Ability to work with confidential data	3	1
Total points	36	35
* Points are given on a scale of 0-5: 0 is not important; 5 means very important.		

Key messages: This case illustrates the common phenomenon of undervaluing of women's work. Library work is mostly done by women and therefore paid less than waste collection mostly done by men, even if the value of the two jobs are the same. Undervaluing women's work is a common problem in all labour markets and it leads to a gender pay gap, which is a serious form of structural sex discrimination. Gender pay gaps should be addressed as a matter of public policy.

Conducting objective jobs evaluations is an important practical measure to promote pay equity. The outcomes of the job evaluation should be used to inform wage negotiations and/or review payment practices in companies. In many countries job evaluation outcomes have also led to the revision of public sector wage regulations and payment practices. When conducting a job evaluation, it is very important to use objective criteria free from discriminatory bias. The evaluation criteria should be selected carefully so that the selected job elements and the weight they are given reflect the content of the jobs in a fair and transparent manner.

Exercise 5: Equal pay for work of equal value – job evaluation (complex)⁵³

Objective: To discuss the concept of equal pay for work of equal value and to test the use of objective job evaluation criteria.

Task: Introduce the exercise by explaining that equal remuneration for work of equal value is a concept that is not always easy to understand. There is broad agreement that pay equity between men and women is fair and just, and that equal pay must be provided to men and women who do exactly the same or very similar work. However, more understanding is needed on fairness in pay in more usual labour market situations where women and men are found in jobs that are different but of equal value. Explain that the four general criteria for comparing the value of different jobs are: qualifications, effort, level of responsibility and working conditions. Distribute **Handout 1** to the participants and lead a brief group discussion about these criteria. Ask the group to give a percentage weight for each of these four criteria (you may want to inform them that most experts agree on the following percentage ranges for each factor: qualifications- 20-35 per cent, effort- 15-25 per cent, responsibility: 25-40 per cent, working conditions: 5-15 per cent).

Prepare a flipchart paper with a job evaluation table for each group. Draw the tables as in **Handout 1**. Give each group one flipchart with the job evaluation table and one marker pen.

Distribute **Handout 2** to each group of participants and ask every group to:

- Conduct an evaluation of the two jobs by filling in the job evaluation sheet on the flipchart.
- Multiply each of the four factors by the percentage weight they allocated to it at the beginning of the exercise.
- Select a spokesperson who will present the outcomes of their job evaluation to the plenary.

Time: up to 1 hour

⁵³ Exercise adapted by T. Al-Rayyed from ILO – Regional Office for Arab States. *Gender Equality and International Labour Standards Workshop for Gulf States*, 12th-16th April 2009 – Beirut, Lebanon.

Handout 1. Job Evaluation Criteria

Factor	Points (from 1-10)
Qualifications	
Knowledge (formal education or experience)	
Manual skills	
Communication skills	
Effort	
Intellectual effort	
Emotional effort	
Physical effort	
Responsibility	
For people	
For property	
Financial	
Working conditions	
Environmental conditions	
Psychological stress	
Health hazards	

Handout 2. Job descriptions

Nurse

- Works directly with patients and their families and is the direct link between the patient and the hospital.
- Records observations about the patient's condition such as heart rate, blood pressure, temperature, etc.
- Undertakes other tasks related to patient care such as: checking and administering drugs and injections, setting up drips and blood transfusions, bandaging injuries/wounds, assisting patients with bathing and dressing.
- Because the nurse spends more time with patients than doctors do, the nurse is usually the first to observe changes in patients' conditions.
- Requires a post-secondary educational qualification in nursing (Bachelor's degree or diploma).

Valet and parking attendant

- Takes cars from customers, parks them in the allocated spaces and returns them to customers.
- In some cases, receives payment for parking services from customers.
- Cleans and maintains the condition of the parking lot.

- Requires a driver’s license and an ability to drive all kinds of cars.

Key messages: This case illustrates the common phenomenon of undervaluing of women’s work. The ILO conducted a gender-neutral job evaluation in a hospital in the Philippines where it was found that nurses were receiving less pay than the valet/parking attendants. The nurses were mostly women, whereas the valet/parking attendants were all men. It is important to note that the valet/parking attendants receive a significant amount of income in tips from customers, and this must be taken into account in calculating their wages.

Undervaluing women’s work is a common problem in all labour markets and it leads to a gender pay gap, which is a serious form of structural sex discrimination. Gender pay gaps should be addressed as a matter of public policy.

Conducting objective jobs evaluations is an important practical measure to promote pay equity. The outcomes of the job evaluation should be used to inform wage negotiations and/or review payment practices in companies. In many countries job evaluation outcomes have also led to the revision of public sector wage regulations and payment practices. When conducting a job evaluation, it is very important to use objective criteria free from discriminatory bias. The evaluation criteria should be selected carefully so that the selected job elements and the weight they are given reflect the content of the jobs in a fair and transparent manner.

Handout 1. Job Evaluation Criteria

Factor	Nurse Points (from 1-10)	Valet and parking attendant Points (from 1-10)
Qualifications	Total: 23	Total: 16
Knowledge (formal education or experience)	7	5
Manual skills	7	6
Communication skills	9	5
Effort	Total: 20	Total: 12
Intellectual effort	7	3
Emotional effort	8	2
Physical effort	5	7
Responsibility	Total: 16	Total: 14
For people	9	2
For property	6	7
Financial	1	5
Working conditions	Total: 20	Total: 14
Environmental conditions	5	7

Psychological stress	7	4
Health hazards	8	3

After each group has filled in this table for both jobs (see example above), each group should calculate the total points for the job. Each of the four factors should be weighted in accordance with the percentages agreed on at the beginning of the exercise, as demonstrated by the example below:

Nurse

Factor	Weight	Points (unweighted)	Points (weighted)
Qualifications	30%	23	= 23 x 30% = 6.9
Effort	20%	20	= 20 x 20% = 4.0
Responsibility	30%	16	= 16 x 30% = 4.8
Working conditions	20%	20	= 20 x 20% = 4.0
Total		79	= 6.9 + 4 + 4.8 + 4 = 19.7

Valet and parking attendant

Factor	Weight	Points (unweighted)	Points (weighted)
Qualifications	30%	16	= 16 x 30% = 4.8
Effort	20%	12	= 12 x 20% = 2.4
Responsibility	30%	14	= 14 x 30% = 4.2
Working conditions	20%	14	= 14 x 20% = 2.8
Total		56	= 4.8 + 2.4 + 4.2 + 2.8 = 14.2

Exercise 6: Sexual harassment

Objective: to challenge participants understanding of what constitutes sexual harassment.

Task: Individually, read the statements below and indicate whether or not you agree with the statement. Share your answers with another person in your group, and discuss justifications and any differences of opinion.

Time: 30 min.

Statement	I agree with the statement	I do not agree with the statement	Remarks
Behaviour such as joking, innuendoes, flirting and asking someone on a date are innocent and are not considered to be sexual harassment.			
There are so many critical problems in the workplace that sexual harassment cannot be considered a priority.			
In order to detect and be able to deal with this issue, it would be appropriate to assign this duty to well-trained women inspectors.			
Sexual harassment only applies to people of a different sex and only if the victim is a woman. Is this ok or not?			
Sexual harassment only applies if the victim is in a subordinate and vulnerable position.			
Just exposing pornographic posters in a workplace cannot be considered sexual harassment.			
A supervisor can increase the production targets of a woman who has repeatedly refused to go out on a date with him.			
A supervisor only asking a woman on a date and threatening to fire her is sexual harassment even if it only happens once.			
Sexual assault and sexual harassment are the same so criminal law is the appropriate legal avenue.			

Exercise 7: Dismissal during pregnancy⁵⁴

Objective: To distinguish discrimination on the basis of pregnancy as one of the most persistent forms of discrimination against women.

Tasks: Read the cases below and discuss in groups.

Time: 40 min.

Case A. Ms Noora's dismissal – Agreement to terminate her contract during pregnancy?

Ms Noora worked as a flight attendant for an Arab airline in the Gulf. In October 2003 she found out that she was pregnant, and informed the officer who oversees the work schedule of flight attendants about her status. She asked the company to offer her a more appropriate position during her pregnancy, but the company to do so. When the flight attendant's schedule was released, Ms Noora's name was not on the list. On 11 November, the company asked her to write a resignation letter and offered her an extra month salary. Ms Noora disagreed and the parties could not compromise. When her salary was due, the company merely paid the salary up to 10 November, her last day of work. As she felt that she was treated unfairly, Ms Noora contacted labour inspector Mr Said and explained her situation. Mr Said ordered the company to pay Ms Noora USD 15,000 in compensation for her dismissal.

The company filed a lawsuit asking the court to revoke Ms Noora's order. The company noted that the employment contract between itself and Ms Noora contained a clause which states: "If an officer becomes pregnant within two years after entering into the contract, then the flight attendant will terminate the contract" (clause 6.1). The company indicated that Ms Noora was well aware of the specific qualifications of being a flight attendant and had agreed with the company that if she would become pregnant within two years of entering into the contract, she would voluntarily terminate the contract. The company argued that it did not dismiss Ms Noora and, therefore, should not be ordered to pay the compensation.

Question: Is this a case of discrimination? Discuss.

Case B. Non-renewal of a fixed duration contract during pregnancy

Ms Alia Amara worked as a sewer for Jordanian, a garment company. She was employed on a fixed duration contract (FDC) and her uninterrupted service in the company had exceeded one year. In 2010 Ms Alia became pregnant, and soon after, the company told her that her current FDC contract would not be renewed. When Ms Alia's FDC expired, her company paid her 5 per cent severance pay. In addition, Ms Alia was told that if she wanted to work in the company again after her child was born, she could be re-employed without a two-month probationary period.

Ms Alia knew that labour law prohibits the termination of the employment of a worker if the worker is pregnant. She demanded that the company should extend her FDC, but the company refused stating that labour law only protects against discriminatory dismissal, not against

⁵⁴ Adapted from, ILO, *Equality and non-discrimination at work in Cambodia: Manual*, p.160-169, ILO, 2012

refusal to extend somebody's FDC. Ms Alia felt that this could not be right, and took the case to the Arbitration Council with the help of her trade union.

Questions for discussion:

1. Does non-renewal of Ms Alia's FDC constitute discrimination? If yes, on which grounds?
2. How would you decide on this case if you were the arbitrator hearing this case? What should be the outcome of the case?
3. If Ms Alia continues to be employed by the company, does she have the right to maternity leave and benefits?

Key message: These cases illustrate the types of discrimination that women of childbearing age face in the labour market. While the law in most countries prohibits the dismissal of pregnant women, in practice many problems remain. Employers commonly try to find an excuse to justify terminating the employment of a pregnant woman. To ensure that women can be protected against termination of employment on the grounds of pregnancy, many countries apply the principle of the reversal of the burden of proof in the hearing of pregnancy discrimination cases. This means that the employer needs to produce evidence that the dismissal or non-renewal of the employment contract was not due to pregnancy, but to some other valid reason(s).

Exercise 8: Stopping abuse and the exploitation of domestic workers⁵⁵

Objective: To reflect on effective ways to stop abuse and exploitation, and safeguard the respect and dignity of domestic workers.

Tasks: Read and discuss the case in groups.

Time: 40 min.

Handout 1.3: Case study on Migrant Domestic Workers

My name is Sukarta, but I have been called “Sally” for the past two years. My employer decided that it is easier to remember, and as many other issues I had no say in the matter. I come from Sri-Lanka where I was working as an administrative assistant in a tourism company in Uva province. One day, a well-dressed lady came and asked me if I am interested in a career abroad where I can make more money. “In Cyprus they are looking for people from around the world to help them grow their economy. You can make in a month what you are making in a year!” All you need is to give me your passport, a CV, and we will take care of the rest. Of course this will cost you, but you don’t need to worry because you will get your money back right away when you cash your first fat salary. I will give you the number of few girls who have done this before... they are now here visiting their families. They can tell you all about it”.

And this was how I found myself in Abu-Dhabi airport for two days, sleeping on the floor with tens of other girls, before we landed in Lebanon. In Beirut, I was walked out by the security officers as if I am an insect about to infect someone. Then I was met by a lady who claimed to be my employer, and was acting with superiority that I didn’t understand. I found it strange that my employer will receive me in the airport, and will be responsible for my passport. It was beyond my imagination to think that I will be working as a domestic worker, and will find myself for two years sleeping on the floor in a corridor outside the kitchen, and get paid almost the same salary I was making at home, with a difference that here I get paid every three or four months.

Why did I stay? Because I incurred a high debt to pay for that agency which cheated me into this job which is not even considered as a job; because I did not have access to my passport; because I was not allowed to leave the house and don’t know anyone who can help me in the country!

Question for discussion:

- Is there a general tendency for employers to exploit and abuse their domestic workers? Justify your response.
- What should be done and by whom to stop the abuse and exploitation of domestic workers? Discuss realistic, concrete and practical measures by:
 - Domestic workers.
 - Their employers.

⁵⁵ ILO, *Decent Work for Domestic Workers in Asia and the Pacific - Manual for Trainers*, Bangkok, 2012, p. 45 available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_184194.pdf

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- Domestic workers' organizations, trade unions, civil society organizations.
 - Government agencies.
 - Employment and recruitment agencies.

Key Message: Domestic workers, a large majority of whom are women and migrants, are particularly vulnerable to physical, sexual, psychological or other forms of abuse, harassment and violence because their workplace is shielded from the public and they generally lack co-workers. Live-in workers can be at particular risk. Measures are required to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence. Domestic workers have the right to enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy. Domestic workers need to be able to seek justice when they face violations of their rights. They must have access to courts and other dispute settlement procedures.

Exercise 9: Gender equality and discrimination issues arising during the employment cycle⁵⁶

Objective: To help participants recognize how recruitment criteria that are not required for adequate job performance may lead to direct or indirect discrimination on prohibited grounds.

Task: Divide participants into small groups. Distribute the case study and ask each group to prepare a presentation after reading it and select a spokesperson to present the findings in plenary session for a maximum of three minutes.

Time: 40 min.

Case of discrimination	Grounds of discrimination
The workforce of a garment factory is made up of half nationals and half migrant workers. In order to accommodate the Muslim workers during Ramadan, the factory lets the national workers leave 2 hours early each day. Most of the national workers are Muslim, but not all. All migrant workers are required to work a full day, though some are Muslim. The factory also provides a dorm for migrant workers, one for men and one for women. Due to security concerns, management applies a 20:00 curfew in the women's dorms. There is no curfew in the men's dorms.	
A large company has a workforce of 80 per cent men and 20 per cent women. Men make up 92 per cent of those at the supervisory and managerial levels. The administrative staff is made up of 90 per cent women. As women tend to leave their jobs when they get married or have children, they are not generally considered suitable for supervisory or management positions. Supervisors and managers are also required to work a considerable number of hours of overtime. There have been a number of cases of burn out because of the long hours. While family allowance is provided for both men and women workers, family leave is only provided to women. Women can take up to 2 weeks family leave to look after sick children or other family members, and they can leave work 30 minutes before the regular shift to avoid traffic.	
In a textile company X, most employees are engaged either in cutting or in sewing. The cutters must handle dangerous cutting equipment, and their work is considered to be more physically demanding than the work of the sewers. The sewing operations require a high level of accuracy, because of the stringent demands and regular quality control of the major buyers. Any errors, even very minor ones, made in sewing operations, can affect the reputation of the company and future orders. Sewing is carried out exclusively by women, and cutting by men. Cutters' hourly wages are 40 per cent higher than sewers' wages. The employer justifies this pay policy by referring to the handling of heavy equipment by the cutters and to the	

⁵⁶ S.Olney, exercise delivered during the training session on gender equality, discrimination and labour inspection, Amman-Jordan 14 August 2013.

Case of discrimination	Grounds of discrimination
hazardous nature of the work. The employer also claims that the men are more productive than the women. The union representing the sewers had an independent analytical job evaluation undertaken to assess the value of the two jobs, which found that overall they were of equal value, based on skill, effort, responsibilities and working conditions. The employer has rejected the findings of the evaluation, claiming the process was biased.	
A company has set a wage of 170 JD for national workers and 110 JD for non-nationals. Housing is also provided for non-national workers, though this is optional. They also receive a seniority bonus of 10 JD which is not provided to the nationals. The non-national workers are from Bangladesh. Previously, there had been some workers from Sri Lanka, but since some of them had tried to organize a strike earlier in the previous year to protest what they considered to be unfair wages, the employer has asked the recruitment agency to not send anymore workers from Sri Lanka.	
Worker X has worked for a company for 10 years in the same capacity. She is well liked by her peers and has been documented as a highly effective and productive employee. She has a chronic back problem. She noticed a posting for a job promotion that she is well suited to her set of skills and she approached the supervisor to express her interest in applying for the new position. The supervisor smiled and told her she did not have the stamina for the position and further that people with disabilities need not apply as it required being on call 24/7.	
A factory owner prefers to hire unmarried women without children, who are less than 25 years old, since he considers that they are more reliable and will accept low pay. The majority of jobs that are categorized as “unskilled” are held by women, but these jobs require considerable concentration, dexterity, and are undertaken in hot and noisy conditions. If they make a mistake, the consequences for the company’s reputation, as well as lost sales, can be significant.	

Answers:

- Case 1: Discrimination on the grounds of sex and national origin.
- Case 2: Discrimination on the grounds of sex (against both women and men).
- Case 3: Discrimination on the grounds of sex.
- Case 4: Discrimination on the grounds of national origin (against local workers, workers from Bangladesh and workers from Sri Lanka).
- Case 5: Discrimination on the grounds of disability.
- Case 6: Discrimination on the grounds of sex, age and marital status.

Exercise 10: What type of discrimination is it?⁵⁷

Objective: To help participants identify direct and indirect discrimination in both law and in practice.

Task: Provide participants with a copy of the handout below. Discuss in groups.

Time: 30 min.

Examples of types of discrimination on the grounds prohibited in Convention No. 111		
	Direct discrimination	Indirect discrimination
1. Legal provisions which stipulate that certain business start-up micro credits may only be granted to male applicants.		
2. Legal provisions prohibiting women’s employment in certain occupations.		
3. Different salary scales for women and men doing the same work or work of equal value set in the law.		
4. Legal provisions that exclude domestic workers from labour law protection. More than 80 per cent of domestic workers are women.		
5. Job advertisements which state that only male applicants can apply.		
6. Job advertisements that set irrelevant height and weight requirements. Data on average height and weight of women and men shows that women are significantly less likely to meet the requirements.		
7. Women’s concentration in a limited range of occupations.		
8. Setting different pay scales for “surface technicians” and “cleaners” even if the work in these two job categories is very similar, and the value of their output is exactly the same. Company staff records show that all surface technicians are men and most cleaners are women.		

⁵⁷ Adapted from ILO, *Equality and Non-Discrimination at Work in Southeast Asia – Exercise and Tool Book for Trainers*, Bangkok, 2011, p. 46

Responses

1. This example is a clear case of direct sex discrimination in law because the law explicitly stipulates eligibility for micro-credits only to male applicants.
2. Prohibitions of women's employment in certain occupations are often adopted as well-intended measures to protect women's health, but may in practice lead to reduced employment opportunities for women. From this perspective, the example is a case of direct sex discrimination in law because the prohibitions exclude women from employment opportunities.
3. This is a clear example of direct sex discrimination in law because the law explicitly stipulates different pay for the same work or work of equal value for women and men.
4. This is an example of indirect discrimination in law based on sex. The decision made by the legislator to exclude the occupational group of domestic workers from protection under the labour law disadvantages this large group of workers who are mostly women.
5. This is a clear example of direct sex discrimination in practice. The job advertisement explicitly excludes women from a job opportunity.
6. This is an example of indirect sex discrimination in practice. The height and weight requirements included in the job advertisement are seemingly neutral, but in practice they disproportionately disadvantage female applicants who are often shorter and lighter than male applicants.
7. All over the world labour markets are segregated so that women are concentrated in certain jobs and men are concentrated in other jobs. In some countries this type of job segregation by sex is rigid while in others it is not so strict. Variations also exist as to what are considered typically "men's jobs" and "women's jobs," for example, trading or sewing are considered men's jobs in some countries and women's jobs in other countries. Some consider that this is "natural" and not problematic. Others think that this serves to protect women from work considered "unsuitable" for them. However, evidence indicates that job segregation by sex limits the choice of occupation both for women and men, and leads to inefficiencies in labour markets. Fewer types of jobs and occupations are available to women compared to men and due to the undervaluation of jobs carried out by women, the latter are often disadvantaged in terms of salary level and access to career development. This concentration of women in a limited range of occupations usually at the lower levels of the job hierarchy constitutes sex discrimination in practice.
8. This is a clear example of indirect sex discrimination in practice. As the content of the jobs of surface technicians and cleaners is the same, they should be paid equal remuneration. Setting different pay scales for the two jobs of equal value discriminates against the cleaners who are all women, and thus constitutes indirect sex discrimination in practice.

Key message: Explain that many countries have made great progress in addressing direct discrimination and repealing discriminatory laws. However, in the process direct discrimination in law may turn into more subtle forms of indirect discrimination and discriminatory practices, unless careful attention is paid to the recognition of these new forms of discrimination as they emerge. To eliminate discrimination it is important to be able to identify the different forms of discrimination, and to take action to repeal more subtle forms of discrimination, which may be widespread.

CHAPTER 5: How labour inspection can detect and tackle discrimination at work

This chapter provides a number of analytical tools that inspectors can use to detect discriminatory practices within an enterprise.⁵⁸ These tools are considered to be international good practice in this field, and were largely developed by the Spanish Labour Inspectorate in order to implement Spain's *Law on Effective Equality between Women and Men* (Art. 20, Law No. 3 of 23, March 2007).

Enterprise analysis

The purpose of an enterprise analysis is to enable labour inspectors to promote gender equality in the workplace and remove discrimination. It consists of gathering sex-disaggregated data and making observations that take into consideration gender differences or differences between other groups of workers. Data that is particularly useful relates to: (i) occupation (participation rate, occupied population, people employed part-time or with "atypical" contracts); and (ii) salary (average annual earnings, gross monthly salary, and gross wage per hour).

The analysis can be carried out using the following steps:

Step 1 - Identify issues to be analyzed: access to employment, job classification, promotion and training, pay (fringe benefits, subsidies), organization of working time, reconciliation of work, personal and family life (maternity leave, paternity leave and parental leave), prevention of sexual harassment and mobbing.

Step 2 - Contextualization of the sector and the enterprise: characteristics of the enterprise (size, division of job categories), sector, activity in which it is engaged, socio-economic situation of surrounding areas (rural, education and mobility issues for women).

Step 3 - Quantitative data: sex-disaggregated statistics, (i.e. percentage of workers hired and provided with training opportunities).

Step 4 - Qualitative data: procedures, criteria, practices and actions of the enterprise in comparison with legal requirements; (i.e. examination of previous selection processes: channels of recruitment, the systems used to collect information from job seekers - job application forms, job offers on the internet or in the press, the content of interviews or examinations, job profiles).

⁵⁸ This Chapter builds on ILO, *Labour inspection and gender equality*, Geneva 2012 Unit III & V.

Practical tools for data collection

Professional categories

Compare the number of women and men in each job and professional category according to the job requirements demanded, and consider if the job requirements are “masculinized” or “feminized” according to stereotypes, values, etc. Below are provided some examples.

Job Category	Men		Women		Requirements	Wage Category
	No.	%	No.	%		
Category 1	15		6		<ul style="list-style-type: none">University degreeAt least three years of managerial experienceAt least ten years of professional experience	Managerial
Category 2	66		40		<ul style="list-style-type: none">University degreeAt least three years of professional experience	Professional
Category 3	122		128		<ul style="list-style-type: none">Secondary education	Administrative

Job	Men		Women		Requirements	Wage Category
	No.	%	No	%		
Job 1	5		1		<ul style="list-style-type: none">Advanced university degree or Bachelor’s degree and certified professional qualificationAt least six years of managerial experienceAt least fifteen years of professional experience	Managerial
Job 2	5		2		<ul style="list-style-type: none">Advanced university degree or Bachelor’s degree and certified professional qualificationAt least three years of managerial experienceAt least ten years of professional experience	Managerial
Job 3	5		3		<ul style="list-style-type: none">University degreeAt least three years of managerial experienceAt least ten years of professional experience	Managerial

Job promotion

Lack of equality exists, for instance, when the percentage of women internally promoted to higher professional categories is substantially lower than the percentage of men. A relevant statistic is that of the percentage of men and women promoted in the most recent promotion rounds (for example, in the last five).

Promotion received in most recent promotion round	Women	%	Men	%	Total
Category 1	2		5		7
Category 2	4		6		10
Category 3	10		18		28
Total	16		29		45

Salaries

It is important to measure wage differentials between men and women aside from the salary regulated by category in order to capture components that are unregulated or based on unmeasured performance.

Category	Job	Men			Women		
		No.	%	Average components (\$)	No.	%	Average components (\$)
Category 1	Job 1	5		3,024	1		2,422
	Job 2	5		2,622	2		2,178
	Job 3	5		2,082	3		1,721
Category 2	Job 1	10		1,523	5		1,389
	Job 2	23		1,343	18		1,302
	Job 3	33		1,168	22		1,003

Employment relationship

To detect whether there is a broad majority of women hired under temporary contracts compared to men, data can be collected - generally and by category and job - using the following two tables. (The breakdown by jobs and categories is made to help the comparison).

Type of contract	Women	%	Men	%	Total
Full-time temporary	51		72		123
Part-time temporary	20		11		31
Full-time permanent	80		110		190
Part-time permanent	23		10		33
TOTAL	174		203		377

Exercise 1: Checklists for enterprise analysis on gender equality

Objective: conduct an enterprise analysis on gender equality

Tasks: In small groups, using the checklists suggested above:

1. Choose one of the suggested categories, namely: job promotion, salaries, a higher incidence of temporary and part-time contracts, sexual harassment, and mobbing. (You can also choose a topic which is not included in the chapter).
2. For the chosen topic, develop practical checklists and guidelines to help labour inspectors collect relevant quantitative and qualitative data, analyse data and observations and suggest possible remedial measures.

Time: 30 min. for group work, 10 min. for each group presentation and 10 min. for final discussion.

For the purpose of this exercise, checklists with ideas are provided below. The checklists can be distributed during the course of the exercise to help participants in developing ideas.

Practical tools for identifying and addressing discrimination⁵⁹

Checklist 1: Identifying discriminatory laws, policies and practices.

Step 1: Determine if there is a distinction, exclusion or preference.

- | | | |
|------|--|--|
| i. | Identify the person(s) or groups that are facing differential treatment. | |
| ii. | Identify the act, omission or process that treats the persons or groups concerned differently or leads to exclusions (a law, administrative, regulation, policy or practice etc.). | |
| iii. | Identify the author, if any, of the act or omission (e.g. an administrative body or authority or private actors (such as an enterprise)). | |

Step 2: Establish whether the differential treatment is based on a prohibited ground (whether intended or through its impact).

- | | | |
|------|---|--|
| i. | Do the person(s) or groups that are facing differential treatment or exclusion have personal characteristics that relate to one or more of the prohibited grounds of discrimination (race, colour, sex, religion, political opinion, national extraction or social origin)? | |
| ii. | Is the treatment due to the person's characteristics related to the grounds mentioned above? | |
| iii. | In a case of suspected indirect discrimination, do apparently neutral measures disproportionately affect certain groups of peoples due to their characteristics related to the grounds mentioned above, compared to groups of people without such characteristics? | |

Step 3: Establish whether there is a negative effect on equality in employment and occupation.

- | | | |
|------|--|--|
| i. | In what ways does the distinction, exclusion or preference have a negative effect? | |
| ii. | Identify the aspect of employment and occupation that is affected (training, access to particular occupations, access to necessary resources, recruitment, remuneration, other terms and conditions of work, social protection, dismissal, retirement, etc). | |
| iii. | Examine how men and women in different groups are affected. | |

Step 4: Is there a valid and legitimate justification for the differential treatment?

- | | | |
|------|---|--|
| i. | Is the differential treatment justified because it is based on an inherent requirement of a particular job? | |
| ii. | Is the measure, while giving preference to a certain group, designed to redress the effects of past discrimination and restore a balance (affirmative action)? | |
| iii. | Is the measure a special measure of protection or assistance aimed to address the particular needs of a specific group, e.g. pregnant women, workers with disabilities, workers with family responsibilities? | |
| iv. | Does the measure genuinely pursue the objective of equality of opportunity? Is it proportional to the nature and scope of the protection or assistance needed or of the existing discrimination? | |

⁵⁹ The ILO, *Equality and non-discrimination at work in East and Southeast Asia – Guide*, 2011, pp.90-94 with adaptation from S. Olney.

Checklist 2: Desk review by labour inspectors.

When labour inspectors carry out an assessment of equality and non-discrimination in the workplace, the desk review should contain an analysis of employee records and other relevant documents of the employment unit or company with a focus on the following aspects:

i.	Investigate the labour force statistics in the enterprise by sex and ethnic origin of the employees (or other relevant grounds, e.g. disability).	
ii.	Examine the enterprise's employment profile in terms of types and levels of jobs and job requirements, analyzing the sex and ethnicity of employees in different positions.	
iii.	Check the wages, benefits, allowances and bonuses of different positions, and analyze wage statistics broken down by sex, ethnicity and other relevant grounds.	
iv.	Check the proportion of women and ethnic minorities in decision-making positions in the unit or company.	
v.	Check whether the company has a policy or regulations on equal employment opportunities, including non-discrimination, equal remuneration for men and women for work of equal value, prohibiting sexual and other forms of harassment, and whether this is made known to the staff and properly monitored.	
vi.	Investigate whether there have been any complaints of discrimination, including sexual and other forms of harassment, or unequal pay, and how these were addressed and resolved.	
vii.	Check whether there is an internal complaints mechanism to receive and address complaints concerning discrimination, and who is involved in this mechanism (the proportion of men and women, etc).	
viii.	Check whether a trade union is represented in the company, or if there is another organization representing the employees, or a gender equality committee, and the role these organizations/bodies play in promoting non-discrimination and equal pay.	

Checklist 3: Questions to ask during the labour inspection visit

RECRUITMENT	
i.	Does the employer formulate neutral job advertisements, i.e. ones that do not deter members of one sex or ethnic groups from applying?
ii.	Do the job descriptions specify clearly non-biased selection criteria, for example, criteria relating only to the qualifications, skills, knowledge and experience necessary for the job, and is this criteria applied in an unbiased manner in the selection process?
iii.	Are any measures taken to encourage underrepresented groups from applying?
iv.	Does the employer use neutral application forms, i.e. forms that do not include questions that are unrelated to the selection criteria (e.g. on applicants' sex, ethnicity, marital or family status, and that do not require a photograph)?
v.	Are the job interviews and placement tests arranged in a non-discriminatory manner?
vi.	Have staff members involved in the recruitment process received non-discrimination training?
vii.	Does the employer include tests for pregnancy or HIV during the health checks of job candidates?
CAREER ADVANCEMENT	
i.	Does the employer inform all eligible male and female employees when opportunities for promotion or training arise?
ii.	Do all the male and female employees have an equal access to training and professional development opportunities?
iii.	Does the employer use fair and non-discriminatory selection criteria, i.e. criteria only referring to the employees' needs, skills, qualifications and knowledge, when selecting employees to undertake training courses?
iv.	Does the employer use fair and non-discriminatory selection criteria, which is not gender biased, when deciding on promotion?
v.	Are members of some specific group(s) given priority for promotion, and if so, for what reasons (personal preference or affirmative action)?
vi.	Has the employer adopted any positive measures to enhance the opportunities of under-represented groups' to compete for advancement in employment?
EQUAL REMUNERATION	
i.	Do all male and female employees, whether on part-time or full-time contracts or on short-term or indefinite contracts, that are performing the same work or work of equal value, receive equal remuneration?
ii.	Are women disproportionately given non-standard contracts, resulting in unequal remuneration for the same work or work of equal value (for example because they do not have access to benefits or bonuses)?
iii.	Do both female and male employees have equal access to housing, family and other allowances, social security and other benefits?
iv.	Are bonuses, incentives and gifts provided to all employees in a non-discriminatory manner, or are they mainly given to male-dominated jobs?

TERMS AND CONDITIONS OF EMPLOYMENT	
i.	Does the employer provide men and women, and different groups, including ethnic minorities, with the same terms and conditions in terms of the type of contracts, regular and overtime work, breaks, sick leave and other leave days, protection against work hazards, conditions for termination of the contract, etc.
ii.	Does the employer provide maternity leave and benefits to women and paternity leave to men?
iii.	Is parental leave provided, or other measures to balance work and family responsibilities, and are these available to men and women on an equal footing?
iv.	Are women treated less favourably due to marital status or pregnancy (e.g. with respect to contract type, requirement to quit when pregnant)?
v.	Does the employer accommodate different religious and cultural practices?
vi.	Has the employer, in collaboration with the employees and their representatives, undertaken any training or awareness-raising of workers regarding non-discrimination?
JOB SECURITY	
i.	Are members of some specific groups discriminated against in terms of duration of probation or the length of the employment contract?
ii.	When decisions on dismissal or layoffs are made, are some groups selected more often or disproportionately than others?
iii.	Is the employer making a decision to dismiss a person strictly based on the reasons connected with the worker's conduct, his or her ability to perform the functions or the requirements of the enterprise?
iv.	Is compensation offered to workers who are dismissed determined in a non-discriminatory manner?

Corrective measures and positive action measures

Depending on the imbalance, corrective measures vary from:

- ✓ Financial compensation.
- ✓ Establishing of quotas.
- ✓ Setting up a promotion/vacancy filling system that is transparent and clear with respect to the assessment criteria and requisites demanded.
- ✓ Adopting gender neutral job evaluation systems and transparency in payment systems.
- ✓ Adopting flexible working arrangements, concentrated working hours, remote working as well as providing child care solutions in the workplace.

Pro-active tools for employers to improve equality and non-discrimination compliance in their enterprise

A similar exercise to the one above can be proposed to trainees using the cards below. Cards would need to be distributed with only the objectives listed. In small groups participants can be asked to suggest actions.

Area: Access to employment

Objectives:

- Encourage workers to apply for jobs where they are underrepresented.
- Attract women to take the training needed to take up the job.

Actions:

- Remove data concerning marital or family status from job questionnaires.
- Publicise the existence of an active non-discrimination policy in job offers.
- Set up a complaints helpline for workers of either sex who believe that they have been discriminated against in the selection processes and investigate such complaints.
- Establish quotas for jobs in which one sex is underrepresented.
- Organise gender equality training initiatives for staff responsible for selection and recruitment.

Area: Professional classification

Objectives:

- Promote equality (women/men) in the composition of the different professional categories within the company to reduce vertical and horizontal segregation.
- Give due recognition to jobs by offering suitable remuneration according to each category.

Actions:

- Change the name of professional categories by removing any references associated with the sex of the worker performing the job.
- Introduce a job evaluation system based on neutral criteria, i.e. assess requirements according to their actual value to the company and not according to social criteria.
- Design specific training opportunities so that women can occupy jobs in categories or units principally occupied by men within the company.

Area: Job promotion

Objectives:

- Remove obstacles and encourage the promotion of women to middle management or executive positions.
- Ensure that reconciling family and working life is not an obstacle in progressing to jobs of greater responsibility.
- Introduce an active non-discrimination policy in the appointment of managerial positions.

Actions:

- Introduce transparency criteria into selection procedures: advertisement, publishing of assessment criteria and grading systems.
- Ensure the participation of the Equality Commission in these processes.
- Establish measures to reserve places in promotion rounds with respect to jobs where women are underrepresented.
- Remove references in contracts or collective agreements whereby male or female workers in more senior positions do not work ordinary working hours.
- Publish the percentage target of promotions to be achieved among staff, together with the job advertisements, to ensure that women participate in promotion rounds.
- Publish advertisements for promotions on a regular basis and use clear and transparent assessment criteria.
- Establish working time flexibility.

Area: Pay / Salary

Objectives:

- Ensure compliance with the principle of equal pay for *work of equal value*.
- Ensure that company discretion in relation to salary setting does not constitute grounds for discrimination.
- Narrow wage differentials between men and women.

Actions:

- Replace unregulated bonuses (voluntary bonuses, rewards) with performance based systems that stipulate the criteria on which pay is based.
- Reduce the salary band in categories where men are seen to earn more than women. This may be either immediate or progressive.

Area: Working time / Reconciliation of personal, family and professional life**Objective:**

- Promote the fair reconciliation of personal, family and professional life among women and men.

Actions:

- Introduce a system for managing proposals aimed at promoting the reconciliation of family and personal life.
- Remove clauses that give the company the power to unilaterally change the place of work and working hours.
- Organise information and awareness-raising days about paternity leave to show that the company has an open attitude towards employees taking such leave.

Area: Sexual harassment**Objectives:**

- Prevent behaviour of a sexual nature or based on the sex of a person which may objectively create an intimidating, degrading or offensive environment for the victim.

Actions:

- Draw up protocols to tackle sexual and sex-based harassment.
- Introduce policies, codes of conduct and other initiatives and ensure that all staff are familiar with them.
- Raise staff awareness on sexual harassment by means of posters and other forms of communication.
- Set up a complaints service (e.g. helpline) for individuals who believe that they have been the victims of harassment and investigate the matter.

Area: Employment relationship**Objective:**

- Promote equality in the levels of temporary contracts held by men and women.

Actions:

- Strict compliance with the legal requirements concerning temporary contracts.

Exersercise 2: Designing an equality plan⁶⁰

Objective: to design a gender equality plan

Tasks: Carefully read the case study provided in the handout. You have been asked by the Company (management and trade union representatives) to help design a gender equality plan. Making reference to the content and examples in previous chapters, design a proposal, present and discuss.

Time: 40 min. for group work, 5 min. for each group presentation and 20 min. for final discussion.

Handout: The Sweet World Company

“The Sweet World” company is a large enterprise, with 1,500 employees. It produces chocolates and sweets that are exported all over the world. Its success is based on the quality of its products and its long tradition. It was founded in 1910 with 200 employees, and it grew slowly, year after year until last year when, after a merger with another company, it reached its present size. Women employees represent 40 per cent of the workforce. All secretaries are women. All technicians are men. All the top managers are men. Five per cent of middle managers are women.

In general, managers are not recruited externally. They are selected from internal staff who are properly qualified and already familiar with the organization of the company. Secretaries are recruited locally and selected by a senior secretary, who is also in charge of training them. Women represent 40 per cent of the workers on the production line. It is a unionized enterprise. A total of 25 per cent of employees are members of the Trade Union. The Trade Union Committee is only composed of men.

Wages in the company are in general higher than the wages agreed for the sector. The enterprise also gives different bonuses, linked to the availability of staff to work overtime and at weekends. In peak periods the amount of overtime is high, but it always negotiated and agreed with the staff union. Different training courses are provided inside and outside the company, especially for managers and technicians to update their competences in management, marketing, trade, new technology and new equipment, etc.

There are no specific provisions for family-related issues. However, in some cases top managers have demonstrated a supportive and friendly attitude towards specific problems affecting employees' families by adopting specific measures. There is no record of official grievances on gender discrimination. However, three women were moved to another job after they took maternity leave, for “organizational” reasons. When the company introduced a third shift three years ago (from 10:00pm to 6:00am) several women – in particular those living far away from the company and/or with children – decided to quit.

In the last five years, four women “decided to quit” when they became pregnant. Rumours circulated among the staff that they were asked to sign a dismissal letter when they were recruited, but this was never proved. Another couple of women workers recently left, and some employees said that this was because of sexual harassment.

These cases were recently brought to the attention of a journalist who published an article in the local newspaper on “Why are women leaving the Sweet World”? The local television also broadcast the same

⁶⁰ Adapted from *Labour inspection and gender equality*, Geneva 2012 Unit V

news item and went to the company to interview managers, trade union representatives and some employees on this issue.

The management, as well as the trade union committee, wants to avoid bad publicity, which will negatively affect the company and ultimately employment. They have asked you to help them design and adopt a gender equality plan.

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Annex 1: C081 - Labour Inspection Convention, 1947 (No. 81)

Article 1

Each Member of the International Labour Organisation for which this Convention is in force shall maintain a system of labour inspection in industrial workplaces.

Article 2

1. The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.
2. National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention.

Article 3

1. The functions of the system of labour inspection shall be:
 - (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
 - (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
 - (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.
2. Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

Article 4

1. So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.
2. In the case of a federal State, the term **central authority** may mean either a federal authority or a central authority of a federated unit.

Article 5

The competent authority shall make appropriate arrangements to promote:

- (a) effective co-operation between the inspection services and other government services and public or private institutions engaged in similar activities; and
- (b) collaboration between officials of the labour inspectorate and employers and workers or their organisations.

Article 6

The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

Article 7

1. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.
2. The means of ascertaining such qualifications shall be determined by the competent authority.
3. Labour inspectors shall be adequately trained for the performance of their duties.

Article 8

Both men and women shall be eligible for appointment to the inspection staff; where necessary, special duties may be assigned to men and women inspectors.

Article 9

Each Member shall take the necessary measures to ensure that duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection, in such manner as may be deemed most appropriate under national conditions, for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers while engaged in their work and of investigating the effects of processes, materials and methods of work on the health and safety of workers.

Article 10

The number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate and shall be determined with due regard for:

- (a) the importance of the duties which inspectors have to perform, in particular--
 - (i) the number, nature, size and situation of the workplaces liable to inspection;
 - (ii) the number and classes of workers employed in such workplaces; and
 - (iii) the number and complexity of the legal provisions to be enforced;
- (b) the material means placed at the disposal of the inspectors; and
- (c) the practical conditions under which visits of inspection must be carried out in order to be effective.

Article 11

1. The competent authority shall make the necessary arrangements to furnish labour inspectors with--

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- (a) local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned;
 - (b) the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.
2. The competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties.

Article 12

1. Labour inspectors provided with proper credentials shall be empowered:
- (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
 - (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and
 - (c) to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular--
 - (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;
 - (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;
 - (iii) to enforce the posting of notices required by the legal provisions;
 - (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.
2. On the occasion of an inspection visit, inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

Article 13

1. Labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers.
2. In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a judicial or administrative authority which may be provided by law, to make or to have made orders requiring--
- (a) such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers; or

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- (b) measures with immediate executory force in the event of imminent danger to the health or safety of the workers.
3. Where the procedure prescribed in paragraph 2 is not compatible with the administrative or judicial practice of the Member, inspectors shall have the right to apply to the competent authority for the issue of orders or for the initiation of measures with immediate executory force.

Article 14

The labour inspectorate shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.

Article 15

Subject to such exceptions as may be made by national laws or regulations, labour inspectors--

- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision;
- (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
- (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

Article 16

Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

Article 17

1. Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning: Provided that exceptions may be made by national laws or regulations in respect of cases in which previous notice to carry out remedial or preventive measures is to be given.
2. It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings.

Article 18

Adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced.

Article 19

1. Labour inspectors or local inspection offices, as the case may be, shall be required to submit to the central inspection authority periodical reports on the results of their inspection activities.
2. These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the central authority; they shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.

Article 20

1. The central inspection authority shall publish an annual general report on the work of the inspection services under its control.
2. Such annual reports shall be published within a reasonable time after the end of the year to which they relate and in any case within twelve months.
3. Copies of the annual reports shall be transmitted to the Director-General of the International Labour Office within a reasonable period after their publication and in any case within three months.

Article 21

The annual report published by the central inspection authority shall deal with the following and other relevant subjects in so far as they are under the control of the said authority:

- (a) laws and regulations relevant to the work of the inspection service;
- (b) staff of the labour inspection service;
- (c) statistics of workplaces liable to inspection and the number of workers employed therein;
- (d) statistics of inspection visits;
- (e) statistics of violations and penalties imposed;
- (f) statistics of industrial accidents;
- (g) statistics of occupational diseases.

PART II. LABOUR INSPECTION IN COMMERCE

Article 22

Each Member of the International Labour Organisation for which this Part of this Convention is in force shall maintain a system of labour inspection in commercial workplaces.

Article 23

The system of labour inspection in commercial workplaces shall apply to workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.

Article 24

The system of labour inspection in commercial workplaces shall comply with the requirements of Articles 3 to 21 of this Convention in so far as they are applicable.

PART III. MISCELLANEOUS PROVISIONS

Article 25

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration appended to its ratification, exclude Part II from its acceptance of the Convention.
2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.
3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the position of its law and practice in regard to the provisions of Part II of this Convention and the extent to which effect has been given, or is proposed to be given, to the said provisions.

Article 26

In any case in which it is doubtful whether any undertaking, part or service of an undertaking or workplace is an undertaking, part, service or workplace to which this Convention applies, the question shall be settled by the competent authority.

Article 27

In this Convention the term **legal provisions** includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred and which are enforceable by labour inspectors.

Article 28

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concerning all laws and regulations by which effect is given to the provisions of this Convention.

Article 29

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of this Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.

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2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and shall give the reasons for which it proposes to have recourse thereto; no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.
 3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

Article 30

1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office as soon as possible after ratification a declaration stating--
 - (a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
 - (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - (d) the territories in respect of which it reserves its decision.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 34, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 31

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.
2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office --

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- (a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
 - (b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.
3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.
 4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
 5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 34, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV. FINAL PROVISIONS

Article 32

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 33

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 34

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound

for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 35

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 36

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 37

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 38

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 34 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Annex 2: Glossary of key gender concepts⁶¹

Affirmative (positive) action

Affirmative action to counter sex discrimination comprises special - mostly temporary - measures to redress the effects of past or continuing discrimination in order to establish de facto equality of opportunity and treatment between men and women. Such measures are targeted at a particular group and are intended to eliminate and prevent discrimination and to offset disadvantages arising from existing attitudes, behaviour, and structures based on stereotypes concerning the division of social roles between men and women. The adoption of positive measures stems from the observation that the legal banning of discrimination has not proved sufficient in itself to create equity in the world of work. Affirmative action in favour of women should not be considered as discriminatory against men in a transitional period.

Affirmative action for women may encompass a wide range of measures, including corrective action such as:

- Setting targets, goals or quotas for women's participation in activities or sectors, or at levels from which they have previously been excluded and in which they are still under-represented;
- Promoting women's access to wider opportunities in education, vocational training and employment in non-traditional sectors and at higher levels of responsibility;
- Placement, guidance and counselling services; adapting working conditions and adjusting work organization to suit the needs of workers with family responsibilities; or fostering greater sharing of occupational, family and social responsibilities between men and women.

Discrimination:

- a) Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- b) Any other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member state concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof is not deemed to be discrimination.

Source: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Basic/practical gender needs

Basic/practical gender needs are those that arise from the actual conditions which women and men experience due to the gender roles assigned to them in society. They are often related to women as mothers, homemakers and providers of basic needs, and concerned with inadequacies in living and working conditions, such as food, water, shelter, income, health care and employment. For women and men in the lower socio-economic strata, these needs are

⁶¹ From ILO, *A manual for gender audit facilitators, the ILO participatory gender audit methodology*, second edition 2012, (Geneva) pp.107-122 - and ILO, *Gender, Employment and the Informal Economy, Glossary of Terms*. (Beirut) 2009.

often linked to survival strategies. Addressing them alone only perpetuates the factors that keep women in a disadvantaged position in their societies.

Practical needs rise out of the gender division of labour and women's subordinate position in society. They do not challenge the existing power relations between women and men. They are merely a response to an immediate perceived necessity, identified within a specific context.

Care work

Care work may be very broadly defined as the work of looking after the physical, psychological, emotional and developmental needs of one or more other people. Care recipients are generally identified as infants, school-age children, people who are ill, people with a disability, and elderly people. Care providers typically include public and private health services, state-regulated or public-sector social workers, public or private care-provider agencies, enterprises of employment, voluntary and community organizations, faith-based organizations or networks, and relatives and friends. It is done visibly as formal employment in institutions, and invisibly and informally in the home (one's own or someone else's). It is sometimes remunerated and sometimes not. It varies widely in intensity and effort. All this makes it hard for politicians and statisticians to arrive at a clear and workable definition of care work.

It is now generally recognized that care work is real work, whatever the setting in which it is performed. However, this recognition is only very recent and was brought about under opposing pressures from orthodox economists and politicians seeking to reduce care's financial burden on the state on the one hand, and from feminists seeking to make care visible and countable on the other. Women continue to be mainly responsible for the "care economy" as an extension, or an integral part, of domestic labour. Care work has a low status and attracts low pay if performed as employment and none at all when performed as housework. Care work will inevitably become more important because of changes in demographic patterns and in the nature of the family, changes in the social and economic status of women, and changes in welfare states.

Childcare and family services and facilities

Childcare and family care are broadly-based concepts covering the provision of public, private, individual or collective services to meet the needs of parents and children or members of the immediate family. Making facilities available to enable workers to discharge their responsibilities in all areas of their lives is an important aspect of the promotion of equality of treatment between male and female workers with family responsibilities, and between such workers and other workers. All workers, irrespective of their sex, should be able to combine paid employment with their responsibilities for children and other family members. Sufficient and adequate childcare and family services and facilities, including facilities for breastfeeding mothers, should be provided so that workers with family responsibilities can exercise their right to free choice of employment. These services and facilities should be flexible enough to meet the particular needs of children of different ages and of other family members requiring care.

The improvement of working and living conditions for workers with family responsibilities should be pursued by means of adequate social policies, including measures to be taken by the

public authorities. The needs of workers who work unconventional hours and whose children cannot be accommodated in facilities keeping traditional hours should be taken into account.

As employers become more aware of their employees' needs in this respect, many employers, particularly in the developed countries, are voluntarily taking various kinds of action towards the provision of childcare services and facilities for their employees, including on-site or off-site childcare centres, private home day-care agencies, childcare subsidies paid to employees, and information referral services.

Equal remuneration for work of equal value

The principle of equal pay for work of equal value (as defined in ILO Convention No. 100 on Equal Remuneration) means that rates and types of remuneration should be based not on an employee's sex but on an objective evaluation of the work performed.

There are several major reasons for these differences in earnings. Jobs done by the majority of women are classified at lower levels. Differences arise in skills and qualifications, seniority, and sectors of employment. Women are highly concentrated in "flexible" work such as part-time, piece-rate or temporary work, which are poorly paid. Women work fewer overtime hours than men. Finally, discrimination with respect to pay, access to and promotion in employment is presumed to be an important factor in the gender pay gap.

The principle of equal pay for work of equal value can be implemented by some practical measures:

- Job classification systems and pay structures should be based on objective criteria, irrespective of the sex of the people who perform the job;
- Any reference to a particular sex should be eliminated from all remuneration criteria, and from collective agreements, pay and bonus systems, salary schedules, benefit schemes, medical coverage and other fringe benefits;
- Any remuneration system/structure that has the effect of grouping members of a particular sex in a specific job classification and salary level should be reviewed and adjusted to ensure that other workers are not performing work of equal value in a different job classification and salary level.

Gender

Gender refers to the socially constructed differences and relations between males and females. These vary widely among societies and cultures and change over time. The term "gender" is not interchangeable with the term "sex", which refers exclusively to the biological differences between men and women, which are universal. Statistical data is disaggregated according to sex, whereas gender characterizes the differing roles, responsibilities, constraints, opportunities and needs of females and males in all areas and in any given social context. Gender roles are learned behaviours in a given society, community or other social group. They condition which activities, tasks and responsibilities are perceived as appropriate to males and females respectively. Gender roles are affected by age, socio-economic class, race/ethnicity, religion, and the geographical, economic, political and cultural environment. Gender relations are also relations of power which affect who can access and control tangible and intangible resources.

Changes in gender roles often occur in response to changing economic, natural or political circumstances including development efforts or structural adjustment, or other nationally or internationally based forces. The gender roles within a given social context may be flexible or rigid, similar or different, and complementary or conflicting. Both women and men are involved to differing degrees and in different ways in reproductive, productive and community management activities, and play roles within social and political groups. Their involvement in each activity reflects the gender division of labour in a particular place at a particular time. The gender division of labour must be reflected in gender analysis. Gender relations have an effect on every aspect of employment, working conditions, social protection, representation and voice at work; this is why gender is called a cross-cutting issue in the world of work. The disparity in any area between women and men in terms of their level of participation, access to resources, rights, power and influence, remuneration or benefits is often called the gender gap. Of particular relevance to gender equality at work is the gender pay gap, the disparity between the average earnings of men and women; but gender gaps are also evident in access to employment, education and vocational training, and meaningful participation in representative social dialogue institutions.

Gender equality

Gender equality refers to the enjoyment of equal rights, opportunities and treatment by men and women and by boys and girls in all spheres of life. It asserts that people's rights, responsibilities, social status and access to resources do not depend on whether they are born male or female. It does not mean, however, that men and women are the same or must become the same, or that all labour market measures must arrive at the same results. Gender equality implies that all men and women are free to develop their personal abilities and make life choices without the limitations set by stereotypes or prejudices about gender roles or the characteristics of men and women.

In the context of decent work, gender equality embraces equality of opportunity and treatment, equality of remuneration and access to safe and healthy working environments, equality in association and collective bargaining, equality in obtaining meaningful career development, maternity protection, and a balance between work and home life that is fair to both men and women. The ILO understands gender equality as a matter of human rights, social justice and sustainable development.

Gender equity

Gender equity means fairness of treatment for women and men, according to their respective needs and interests. This may include equal treatment or treatment that is different but considered equivalent in terms of rights, benefits, obligations and opportunities. Equitable access to education, irrespective of whether the child is a boy or a girl, would be an example. In some developing countries, although primary education is compulsory and free, girls are not sent to school because in certain hours of the day they have household responsibilities. Therefore, flexibility of hours in school would ensure fairness of treatment.

Gender equality in the world of work

Gender equality in the world of work, within the ILO Decent Work Agenda, refers to:

- Equality of opportunity and treatment in employment;
- Equality in association and collective bargaining;

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- Equality in obtaining meaningful career development;
 - A balance between work and home life that is fair to both men and women;
 - Equal participation in decision-making, including in the constitutive ILO departments;
 - Equal remuneration for work of equal value;
 - Equal access to safe and healthy working environments and to social security.

Glass ceiling

Invisible and artificial barriers that militate against women's access to top decision-making and managerial positions, arising chiefly from a persistent masculine bias in organizational culture, are popularly known as the "glass ceiling". Although few women have made it to the very top in the world of work, this phenomenon is still prevalent in all but a handful of countries despite women's increased levels of qualifications, employability and work performance.

The existence of the glass ceiling is a prime example of discrimination against women at work through vertical segregation by sex. It exists because women's career paths tend to be more circuitous and interrupted than those of men which are typically linear. Women workers still bear more of the main burden of family responsibilities than men and so have less time for the "extracurricular" formal and informal networking essential for advancement in enterprises. Clearly, eliminating sex discrimination by law will naturally weaken the glass ceiling. The metaphor of the glass ceiling has been extended to apply to other areas of vertical and horizontal occupational segregation, such as "glass walls" (concentration of women in certain sectors, women unable to jump the gap between secretarial/administrative and managerial functions regardless of their educational attainments or experience) and the "sticky floor" (women trapped in the lowest-paid jobs or on the bottom rungs of their occupation and unable to rise above the poverty line).

Harassment and pressure

Harassment and pressure (also known as bullying or mobbing) at the workplace can occur as various offensive behaviours. It is characterized by persistently negative attacks of a physical or psychological nature, which are typically unpredictable, irrational and unfair, on an individual or group of employees. Sexual harassment is a particular form of harassment. Electronic surveillance of workers also has the potential to constitute harassment in some circumstances.

No worker, female or male, should be subjected to harassment or pressure in any term or condition of employment, or to emotional abuse, persecution or victimization at work. In particular, there should be no sexual harassment. Work assignments should be distributed equally and based on objective criteria. The job performances of all employees should be evaluated objectively. Employees should not encounter obstacles in the performance of their job functions and should not be required to perform additional work duties or assignments on the basis of their sex. Victims of harassment and pressure should be protected from retaliatory or disciplinary action by adequate preventive measures and means of redress.

There is growing awareness that harassment and pressure in the workplace is not merely an individual human problem but is rooted in the wider social, economic, organizational and cultural context, which includes pervasive inequalities in gender relations. As research

indicates, the effects of harassment are also a costly burden for the worker, the enterprise and the community. Harassment should therefore be addressed by adequate measures.

Informal employment⁶²

Informal employment comprises the total number of informal jobs, whether carried out in formal sector enterprises, informal sector enterprises, or households, during a given reference period. It includes the following types of jobs:

- (a) Own-account workers employed in their own informal sector enterprises;
- (b) Employers employed in their own informal sector enterprises;
- (c) Contributing family workers, irrespective of whether they work in formal or informal sector enterprises;
- (d) Members of informal producers' cooperatives;
- (e) Employees holding informal jobs in formal sector enterprises, informal sector enterprises, or as paid domestic workers employed by households; where they exist, employees holding formal jobs in informal sector enterprises should be excluded from informal employment;
- (f) Own-account workers engaged in the production of goods exclusively for final use by their household, if considered employed.

Maternity protection

Maternity protection for employed women is an essential element in equality of opportunity. It seeks to enable women to combine their reproductive and productive roles successfully, and to prevent unequal treatment in employment due to women's reproductive role. The elements of maternity protection covered by the most recent standards concerned with maternity protection, Convention No. 183 and Recommendation No. 191 (2000), are:

- Maternity leave—the mother's right to a period of rest in relation to childbirth;
 - Cash and medical benefits – the right to cash benefits during absence for maternity;
 - Protection of the health of mother and child during pregnancy, childbirth and breastfeeding;
 - The mother's right to breastfeed a child after her return to work;
 - Employment protection and non-discrimination – guaranteeing the woman employment security and the right to return to the same job or an equivalent one with the same pay.
- Historically, maternity protection has always been a central concern of the ILO.

Occupational segregation

Occupational segregation by sex occurs when women and men are concentrated in different types and at different levels of activity and employment. Worldwide, labour markets are segregated to a surprisingly large extent: some 60 per cent of non-agricultural workers in the world are in an occupation where at least 80 per cent of the workers are either women or men. Women tend to be confined to a different range of occupations than men are (horizontal segregation) and to lower job grades (vertical segregation). In the 1980s and 1990s, the range of occupations in which women were employed expanded in many countries –especially some member countries of the Organization for Economic Co-operation and Development (OECD) and some small developing countries where occupational segregation was high – but narrowed in others, particularly in transitional economies. In some countries, legislation sets limitations on the kind of work women can do, and this has generally been based on the idea that women's

⁶² ILO, *Guidelines concerning a statistical definition of informal employment*, adopted by the Seventeenth International Conference of Labour Statisticians (November – December 2003)

reproductive function must not be put at risk – an idea that is by now on the whole out-dated with a few exceptions.

The causes of occupational segregation are usually to be found in practices based on entrenched stereotypes and prejudices concerning the roles of women and men in society, including indirect discrimination in education systems. Occupational segregation is an expression of inequality, as it implies differentials in power, skills, income and opportunities.

Even though women are now fast entering the technical occupations and work in the Information and Communications Technology (ICT) sector in greater numbers in some regions of the world, they are still present in fewer occupations than men, and are under-represented at senior management level almost everywhere. They are in the majority in agriculture and services. Women predominate at lower levels in education, health and social services –all occupations related to caring – whereas men predominate in occupations assumed to require physical strength, such as construction and mining, or physical or psychological aggressiveness, such as high finance, politics or the military.

Sex

Sex refers to the biological differences between men and women that are universal and usually determined at birth. For example, only women can give birth; only men can determine the sex of their child. Sex as a noun has been defined as a biological category, in contrast to the social category of gender. Sex refers to the physical characteristics of the body, while gender concerns socially learned forms of behaviour. Sex and gender division are not the same.

Sex discrimination

Differential treatment of men and women – in employment, education and access to resources and benefits, etc. – on the basis of their sex. Discrimination may be direct or indirect.

Direct sex discrimination

It exists when unequal treatment between women and men stems directly from laws, rules or practices making an explicit difference between women and men (e.g., laws which do not allow women to sign contracts).

Indirect discrimination

Is when rules and practices that appear gender neutral in practice lead to disadvantages primarily suffered by persons of one sex. Requirements which are irrelevant for a job and which typically only men can meet, such as certain height and weight levels, constitute indirect discrimination. The intention to discriminate is not required. Discrimination is defined in ILO Convention 111 (1958) as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origins which nullifies or impairs equality of opportunities or treatment in employment or occupation. In most countries, the law prohibits discrimination based on sex. In practice, however, women in both developing and industrialized countries continue to encounter discrimination in one form or another in their working lives. While cases of direct and *de jure* sex discrimination have declined, indirect and *de facto* discrimination continues to exist or have emerged. To identify discrimination based on sex, it is advisable to look not only at an intent or purpose reflected in rules or action, but also at the actual effect generated.

Gender based violence at work

Discrimination at work may be compounded by physical or psychological violence which may be gender-based. The clearest illustration of this is sexual harassment; but harassment accompanied by violence or the threat of violence need not be sexual in intent. There is a close connection between violence at work and precarious work, gender, youth, and certain high-risk occupational sectors. A young woman with a precarious job in the hotel industry or in domestic work, for instance, is much more likely to be exposed to the risk of sexual harassment than a mature male office worker with a permanent job.

National and international legislation against workplace violence and gender-based violence exists, but preventive action is essential for creating and sustaining a violence-free working environment where women workers can feel as physically and psychologically as safe as their male colleagues. Gender-based violence is a very complex issue rooted in gendered power relations in the economy, the labour market, the employment relationship, organizational culture and cultural factors.

Workplace measures to combat gender-based violence may include:

- Regulations and disciplinary measures;
- Policy interventions against violence;
- Disseminating information about positive examples of innovative legislation, guidance and practice;
- Workplace designs that may reduce risks;
- Collective agreements;
- Awareness raising and training for managers, workers and government officials dealing with or exposed to violence at work
- Designing and putting in place procedures to improve the reporting of violent incidents in conditions of safety and confidentiality

Work-family balance

Motherhood and the gendered division of labour that places primary responsibility for maintaining the home and family on women are important determinants of gender-based inequalities between the sexes and of inequalities among women. Conflict between family responsibilities and the demands of work contributes significantly to women's disadvantage in the labour market and the sluggish progress towards equal opportunity and treatment for men and women in employment. While women are forced, or choose, to accept poorly-paid, insecure, part-time, home-based or informal work in order to combine their family responsibilities with their paid employment, difficulties in reconciling the demands of work and family contribute to men's disadvantage in the family and limit their ability to be involved in family matters. Workplace schedules that do not take into account workers' family responsibilities can constitute indirect discrimination by forcing such workers to "under-perform" in terms of participation in workplace activities and thus potentially damage their career development prospects. In particular, women's career advancement may suffer when they take a "career break" longer than the statutory maternity leave for the purposes of family care or take up parental leave provisions immediately after maternity leave. However, there has recently been an increasing recognition of the importance of devising measures to help reconcile workers' family responsibilities with their work – a key strategy to facilitate women's

greater participation in decent work. As clearer links have been established between the achievement of equality between women and men at home and in the workplace, the issue of harmonizing employment and family commitments for both women and men has emerged as an important labour and social policy theme in a growing number of countries.

Work-life balance

The term “work-life balance” refers not only to caring for dependent relatives, but also to “extracurricular” responsibilities or important life priorities. Work arrangements should be sufficiently flexible to enable workers of both sexes to undertake lifelong learning activities and further professional and personal development, not necessarily directly related to the worker’s job. However, for the purposes of the Convention and states’ obligations in this rather vague area, the balance between work and family life is central to the principle and objectives of promoting equal opportunity. Issues related to the improvement of career opportunities, lifelong learning and other personal and professional development activities are considered to be secondary to the objective of promoting the more equal sharing between men and women of responsibilities in the family and household as well as in the workplace.

Vulnerable workers

Vulnerable workers comprise own-account workers and contributing family workers.

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