

Gender Equality in Iraqi Labor Law and Labor Policies

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Abbreviations

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

ESCWA: Economic and Social Commission for West Asia

ILO: International Labor Organization

NGO: Non-governmental organization

SDGs: Sustainable Development Goals

UN: United Nations

Forward

In Iraq, one out of every six women aged 15 or older effectively participates in Iraq's workforce. This means that approximately 85% of women aged 15 or older – more than half of Iraq's total female population -- are not participating in the labor force, predisposing them to the risks of poverty and social marginalization¹. Addressing this gap and the untapped labor force could generate significant change in the country's economy and social development². Many women are prevented from participating in the labor force directly due to gender stereotypes and prevailing social norms, and many others face barriers in the work environment that undermine their full and equal participation in decent work.

Iraq's legal framework guarantees equal opportunity and non-discrimination in the workplace, eliminates all forms of forced or compulsory labor, and terminates child labor. Nonetheless, many challenges of implementation remain. While a new labor law containing strong gender equality provisions was signed into law in 2015, lawyers are generally unfamiliar with the protections afforded by these provisions. Legal practitioners need training on and access to resources about these provisions, as well as in conceptual frameworks about gender inequality, to ensure that these protections are put into practice to tackle gender discrimination in the work environment.

In light of these challenges, this manual seeks to provide legal practitioners, public officials, and other Iraqis working in this space with an introduction to the challenges Iraqi women face in the world of work and how the provisions in Iraqi Labor Law No. 37 (2015) can advance gender equality throughout the labor force. It introduces the concepts of gender inequality, gender discrimination, maternity protection, and sexual harassment and how they are addressed within the Iraqi Labor Law and in Iraq's international commitments, particularly those addressing labor standards in the context of gender equality.

This manual draws on Iraqi and international experts' years of experience to critically examine women's rights in Iraq as well as critical pathways, based on best practices and international law, to a more equal future. It provides a basis for and a conceptual framework for the substantive work of the Workforce Empowerment for Women project team -- PartnersGlobal, New-Rule, Partners Iraq -- in collaboration with Iraqi partner institutions the Iraqi Bar Association and the Ministry of Labor and Social Affairs. With the support of Global Affairs Canada, the WEW project seeks to strengthen the implementation of the labor law and ensure that women can take full advantage of their rights under the law.

PartnersGlobal, New-Rule, and Partners Iraq are very grateful to the many colleagues who contributed to the development of this manual, particularly Janet Lord, Jennifer Tsai, and Frazier Beall of New-Rule. Special thanks also go to our knowledgeable and

talented colleagues Dr. Saba Rasheed and Masrour Aswed, for their substantial input, contributions, and feedback on the manual. Finally, we thank Global Affairs Canada for funding the Work Empowerment for Women project and, more generally, for their commitment to strengthening protections for working women around the world.

The purpose of this manual is to provide clear and accessible guidance on the implementation of the gender equality provisions in the Iraqi Labor Law, 2015. It provides background information about gender inequality in the world of work, from international, regional, and Iraqi perspectives. The manual also addresses the detrimental effects of sexual harassment and hostile work environments, and the challenges victims face in reporting such incidents. In addition, it reviews key concepts and principles on gender equality and non-discrimination in the workplace, provides an account of the major obligations in the Iraqi Labor Law, and reviews the standards set out in the International Labor Organization treaties ratified by Iraq. It also addresses the implications of harassment and discrimination in the workplace and outlines guidelines on how to address such conduct. It provides additional guidance on good practices and standards drawn from the Arab Region and around the world.

This manual is intended for those working on the implementation of the gender equality provisions found in the Iraqi Labor Law. It will be of specific interest to the following:

- Government officials responsible for gender equality
- Policymakers
- Labor judges
- Labor lawyers
- Lawyers focused on the rights of women
- Women's rights NGOs and CSOs
- Labor Inspection Committees in the Ministry of Labor and Social Affairs
- Trade unions

Following this introduction, the structure of the manual is as follows. Part 2 provides some basic facts about gender inequality in the world of work, offering international and regional perspectives as well as data specific to Iraq. Part 3 reviews key concepts and principles relevant to thinking about gender equality and equal rights at work. Part 4 reviews the concept of gender discrimination in the workplace. Part 5 addresses sexual harassment and hostile work environment. Part 6 examines pay equality between men and women for work of equal value. Part 7 covers the issues of maternity protection, work, and family. Part 8 reviews the remedies available to victims of gender-based violence and workplace harassment. Part 10 offers suggestions for advancing gender equality in the world of work.

1. Understanding the Problem of Gender Inequality

An important precondition to addressing inequality in the workplace is understanding and recognizing how sexism, harassment and violence against women are major barriers to gender equality. Two other essential steps in combatting gender inequality include:

- understanding how these barriers develop; and
- exposing these barriers so that society understands their negative impacts.

The introduction provided here begins with data about gender inequality. It includes research findings globally, regionally across the Arab Region, and nationally, in Iraq. Understanding gender equality in employment in Iraq and the Arab Region, including key data points on the impact of inequality in employment, provides helpful background for understanding the legal framework and approaches for addressing gender inequities in the workplace.

1.1. Basic facts about gender inequality in the world of work

Globally, the ILO estimates that women have lower chances of being employed than men and are more likely to be at the bottom of the professional ladder.³ On average, around the world, women earn only 80 per cent of what men make.⁴ According to the ILO's Global Wage Report of 2018, women, on average, are paid 20.8% less than men in the region of Eastern Europe and Central and Western Asia, which is close to the global average.⁵ Discrimination against women, including violence and harassment in the world of work, is persistent and pervasive. While laws, policies and international commitments adopted in support of gender equality seek to advance gender equality in the world of work, implementation of these protections lags far behind. The 2030 Agenda for Sustainable Development places a major emphasis on the need to improve women's employment and economic assets in order to realize development gains. See Box 1.

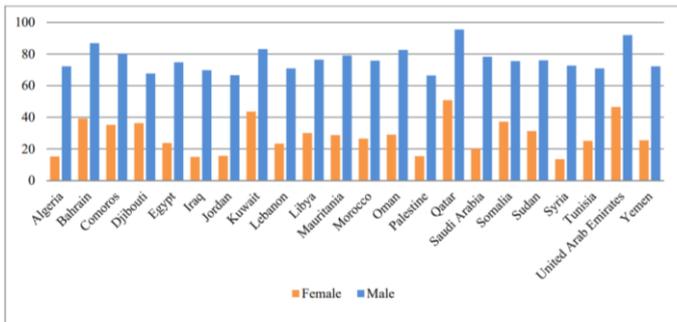
Box 1: 2030 Agenda for Sustainable Development and Women’s Employment and Economic Assets: Sustainable Development Goals 1, 5 and 8.1

Target 8.5: By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

Target 1.4: By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.

Target 5.a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance, and natural resources, in accordance with national laws.

The Economic and Social Commission for West Asia (ESCWA) reports that the Arab Region has the lowest rates of female labor force participation in the world, falling far below the global average of 50 per cent.⁶ Based on World Bank data, the Arab region’s average ratio of the participation rate of female to male workers in the labor force was 32 percent in 2017. For Iraq, the number falls to just above 15 percent, making female participation in the labor force among the lowest in the region.⁷ Notwithstanding progress in women’s educational attainment in the Arab Region, the share of women participating in the labor force across the region remains markedly low.⁸ Thus, female education does not necessarily result in more and better employment due to other persistent barriers. Research shows that, on average in the region, the share of the female working-age population active in the labor market, either by working or by looking for work, is just 23 per cent on average.⁹ This leaves



Source: International Labour Organization, Key Indicators of the Labour Market Database, ‘Labour force participation rate’ indicator.

Chart 1: Arab Region Labor force participation rates (%), by country and by sex (2013)

some 80 percent of women aged 15 and above inactive in the work force.¹⁰ See Chart 1.

Youth unemployment is a significant concern across the Arab Region. An average of 29 per cent of the population aged between 15 and 24 is looking for employment. Among youth, there is a major disparity in unemployment rates for female youths and male youths in the Arab region. In Iraq specifically, 27 percent of female youth are unemployed, making the rate of unemployment among female youth more than double the rate of unemployed male youth, which is 17 percent.¹¹

Research emphasizes numerous barriers to women's inclusion, including lack of training on gender equality issues by employers, pressure to conform to conservative gender roles, negative media stereotypes, and lack of education on civic and human rights.¹² Research undertaken in Iraq reveals the many barriers to economic participation for women. These include:

- Traditional views held by both men and women about the role of women in society.
- Men concerned about how women's economic gains will impact their own status as they struggle with already-limited job opportunities.
- Concern by family members about shaming if women leave the house.
- Preconceived notions about a woman's abilities.

- Women’s actual experiences with abuse and sexual harassment inside and

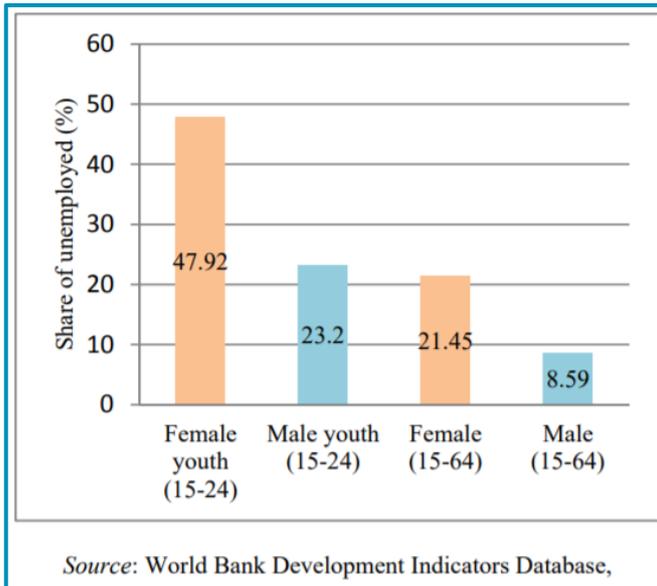


Chart 2: Average unemployment rates in the Arab region, by age and sex (2013) outside the home.¹³

In Iraq, labor market participation is particularly low for women and youth, despite women composing half of the total population.¹⁴ In 2009, 72% of males were in the labor force, whereas only 16% of females were participating. Iraq is one of the youngest countries in the world, with Iraqis under 24 years old accounting for 59% of the population. Within the youth population (14 to 24 years old), 33% of male youth and 60% of female youth are unemployed. Data also suggests the impact of conflict and ongoing instability have left many women widowed or without male support. One in ten Iraqi women are the head of their household, with 80 percent of these women being widowed, divorced, separated, or the caretaker for a sick spouse.¹⁵ Moreover, of these female-headed households, only two percent are employed with a steady salary.¹⁶

Girls’ and boys’ school transition rates have stagnated since 2010, and boys’ literacy rate has decreased. Net enrollment at primary school is 94% for boys and 82% for girls; at secondary it is 39% and 26% respectively. The youth literacy rate (15-24) is 82% for boys and 75% for girls.)¹⁷ Girls’ and boys’ school transition rates have stagnated since 2010, and boys’ literacy rate has decreased.¹⁸

A survey in 2015 found that more than 50% of men ages 15+ find it unacceptable for women to work. Only 41.5% of women believe they should participate in political affairs. In areas under ISIL-rule, women's rights regressed: women had limited options to work, had a strict dress code and were no longer allowed in public without a male relative, there were forced marriages (including of young girls), and most girls stopped attending school. Yet women also played crucial roles to ensure family well-being, e.g., promoting safety and education, resulting in shifts in intra-household power dynamics and joint expenditure decision-making, and an interest among displaced women in greater involvement in community decision-making.¹⁹

1.2. General overview of the Iraqi Labor Law including on gender in employment

The Iraqi Parliament issued the new Iraqi Labor Law No. 37 in 2015 and it entered into force on 7 February 2016, replacing the earlier Labor Law No. 71 of 1987. This section provides a brief overview of the Law and highlights those areas of the law that provide protection from discrimination and other types of protection in the world of work.

Application of the Labor Law: The Law applies to all employees in Iraq (i.e., including Iraqis and foreigners), with the exception of public sector employees who have been hired according to the Civil Service Law and all security forces.

Aims of the Labor Law: The aim of the Law is to address the previous labor law's shortcomings and align Iraq's labor regulations with international labor principles ratified by Iraq. Significantly, on the adoption of the new Law, Iraq ratified all the international standards and conventions regarding labor which were not ratified by the previous law, and which had been left pending.

Key Attributes: The Law aims to organize all aspects of the relationship between the employer and employees in the private sector and to ensure the protection of rights based on social justice, equality, and decent work for all without discrimination. Other key objectives include the elimination of all forms of compulsory labor and child labor, determination of a minimum working age and the prevention of discrimination or harassment, whether direct or indirect. It specifically protects against sexual harassment and gender discrimination and provides protection related to maternity and parenthood. Finally, it addresses the work of subcontractors, whose work was not previously regulated.

Forms of Work: The Labor Law regulates the following forms of work: Temporary Work, Casual Work, Compulsory Work, Part-time Work, and Indefinite Work. Additionally, the Law prohibits all forms of compulsory work.

Work of Foreigners: The Labor Law regulates the work of foreigners in the country and devotes a special section to the rights of foreign workers, the work permits and visas that should be obtained, and conditions. Foreign employees are entitled to submit complaints directly to the Inspection Committees of the Ministry of Labor and Social Affairs, in case of any violation.

Occupational Health and Safety: The Labor Law provides that the National Center of Occupational Health and Safety is responsible for planning and oversight to protect employees at work sites from occupational diseases and injuries and it sets out requirements for safety and health in the working environment.

Contractual Relationship between Employer and Employee: The Labor Law sets forth the requirements of employment contracts, the rights of both parties and dispute settlement mechanisms.

Labor Courts: The Labor Law establishes one or more labor courts in each governorate to oversee disputes that might arise from employment agreements. Each Labor Court is comprised of a judge named by the Supreme Judiciary Council, a representative of the general federation of trade unions, and a representative of the employers' federation. Labor Courts have jurisdiction over civil and penal actions, matters and disputes referred to in the Labor, Pension and Social Security Law for Workers and temporary decisions involving actions within the jurisdiction of the Labor Courts.

Termination Provisions: The Labor Law addresses in significant detail the procedures surrounding termination of the employment contract. It creates a Service Termination Committee under instructions issued by the Minister of Labor and Social Affairs that is mandated to hear appeals filed against termination decisions. Committee decisions may be appealed to the Labor Court within thirty days from the date of notification. The Labor Law regulates the termination of the employment contract and places limitations on how the employment relationship may be terminated.

2. Key Concepts & Principles on Equal Rights at Work

“A better future of work for women can only be realized by redressing discrimination and disadvantage and overcoming entrenched stereotypes relating to women in society, the value of their work and their position in the Labor market.”²⁰

The Iraqi Labor Law safeguards the right to work broadly defined as every mental or physical effort exerted by a worker in return for a wage, whether such work is permanent, casual, temporary, or seasonal. The Law embraces “the policy of promoting full and productive work and respects its fundamental principles and rights, whether in the Law or in the implementation.” It sets out the key principles that inform the policy: (1) Freedom of association and the effective recognition of the right to collective bargaining; (2) Elimination of all forms of forced or compulsory labor; (3) Effective abolition of child labor; and (4) Elimination of discrimination in employment and occupation.

These principles align with those set out in international human rights and international labor standards. Iraq is party to 3 of the 4 ILO Conventions designated as key standards on gender equality. These include:

- Equal Remuneration Convention (No. 100)
- Discrimination (Employment and Occupation) Convention (No. 111)
- Maternity Protection Convention (No. 183) (this treaty was approved by the Iraqi Parliament and is pending ratification at the international level).

In addition, Iraq is party to the Convention on the Elimination of All Forms of Discrimination against Women, among other human rights treaties that embrace non-discrimination between men and women.

The principles that animate gender equality in Iraqi law and that pertain specifically to gender equality in employment, are considered briefly below.

2.1. Decent work for men and women

“We take another step towards globalizing social progress when we champion gender equality as a matter of rights and social justice as well as efficiency and good business sense.”²¹

The Iraqi Labor Law recognizes the importance of decent work for both men and women. More women are participating in labor markets throughout the world today than ever before. However, increases in labor force participation have not resulted in a substantial narrowing of gender gaps in the world of work. For instance, women are still less likely than men to hold regular wage and salaried positions. They also continue to be over-represented in occupations with low pay, and low productivity with little protection. The situation is worse for certain groups of women including foreign women workers, women with disabilities, ethnic minorities, or widows. The progress to date is not sufficient to ensure decent and productive work for all as long as women continue to face unequal access to employment, unequal pay, and limited access to social protection and positions of leadership.²²

2.2. Equality of opportunity

The Iraqi Labor Law *“prohibits any violation of the principle of equal opportunities and equal treatment for whatever reason”* and *“in all matters relating to vocational training, recruitment, or the terms and conditions of employment.”* Equality of opportunity is therefore a cornerstone of the Iraqi Labor Law.

The promotion of equality of opportunity for women and men to obtain decent work means providing fairly paid productive work in conditions of freedom, equity, security, and human dignity. This principle requires a range of strategic objectives, such as promotion of fundamental rights, employment creation, social protection, and social dialogue. What this means in practice is enhancing equal employment opportunities through measures that also aim to improve women’s access to education, skills training, and healthcare, while taking women’s role in the care economy adequately into account. This can be achieved, for example, through work–

family balance measures and providing workplace-level incentives for the provision of childcare and parental leave.

Laws to establish that women and men have equal rights at work are the basis for demanding and achieving substantive equality in practice. Achieving gender equality in the world of work is possible through such measures as repealing laws that discriminate against women and girl, amending provisions preventing women from working at night or underground, or entering and progressing in a specific sector or occupation altogether. Evidence from around the world shows that lifting such barriers has a positive effect on the participation of women in the labor market. Laws that actively promote equality also have a significant impact and are needed to further accelerate progress.

2.3. Non-discrimination in employment

Work is the right of every citizen capable of performing it, and the State shall endeavor to provide work on the basis of equal opportunity, without any kind of discrimination.
Article 4. Iraqi Labor Law.

Article 4 of the Iraqi Labor Law guarantees non-discrimination and names as one of its key principles the elimination of discrimination in employment and occupation. Article 8 of the Law prohibits discrimination between workers, including direct or indirect discrimination, in all aspects of employment including vocational training, recruitment, or the terms and conditions of employment.

The right to non-discrimination together with equality of opportunity and treatment in employment and occupation is explicitly protected in the ILO Discrimination (Employment and Occupation) Convention. It is also reflected in other treaties to which Iraq is party, including the ILO Constitution, the ILO Equal Remuneration Convention, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.

Protection against discrimination refers to the right of all women not to be treated less favorably in a work situation because of their sex. A few examples of this principle include:

Women should not be paid less than men for equal work of equal value.

Maternity should not be a source of discrimination in recruitment, hiring, access to training, conditions of employment, or promotion.

Ideas about protecting women should not be a source of discrimination, such as prohibiting a woman from doing certain tasks because they are “not for women.”

Caregiving responsibilities should not be a source of discrimination, such as not hiring a woman because of assumptions that she cannot work regular hours, or that she will need to take time off because of home responsibilities.

Discriminatory practices in the world of work continue to extend to all aspects of employment and occupation, including remuneration, career advancement, and social security provisions and coverage. See Box 2 for examples of entrenched discrimination related to women and work and its impact.

Unfair treatment, which includes abuse, harassment, and discrimination, is among the top three challenges facing working women, especially young women between the ages of 15 and 29.²³ A world of work free from violence and harassment is essential if there is to be a future of work with gender equality. Collective agreements and workplace measures can be important vehicles for addressing discrimination and violence and harassment in the world of work, both to improve the scope and coverage of legislation when such exists, and to fill the gap when legislation is non-existent. Remedies and sanctions are important elements of implementing non-discrimination in the world of work.

Box 2: UN Special Rapporteur on extreme poverty and human rights

According to the UN Special Rapporteur on extreme poverty and human rights, to redress structural inequalities, including gender inequalities, States should evaluate the differential impact of existing and proposed fiscal policies on different groups, in particular those who suffered from structural discrimination. She notes the following:

- Low levels of revenue collection have a disproportionate impact on the poorest segments of the population:
- Women are more likely to be directly dependent on social protection and health systems at some period in their lives because of their sexual and reproductive health and maternity-related needs.
- Women serve as unpaid alternative care providers when public services are not adequately funded, thus limiting their opportunities to engage in paid work, education, training, or leisure, while also negatively affecting their enjoyment of rights such as health, education, participation, and social security.
- Certain tax arrangements can directly or indirectly work against women's participation in the Labor force. It is important to review tax structures, codes, and instruments to remove explicit and implicit gender bias and ensure that they do not reinforce existing gender inequalities, including through their impact on unpaid care work.

Source: UN Special Rapporteur on extreme poverty and human rights

2.4. Elimination of all forms of forced or compulsory Labor

Forced Labor is "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily."²⁴

A core principle set forth in the Iraqi Labor Law is the elimination of all forms of forced or compulsory labor. Freedom from forced or compulsory labor is reflected in numerous international treaties to which Iraq is a party. (See Box 3).

For governments around the world, the elimination of forced labor remains a major challenge in the 21st century. Forced labor is, of course, a serious violation of a fundamental human right. It is also a leading cause of poverty and a major hindrance to economic development.

Box 3: International Treaty Obligations Protecting against Forced or Compulsory Labor

Iraq is a party to the following international treaties that prohibit forced or compulsory Labor in all its forms:²⁵

- **Forced Labor Convention, 1930 (No. 29):** This convention prohibits all forms of forced or compulsory Labor defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Exceptions are provided for work required by compulsory military service, normal civic obligations, as a consequence of a conviction in a court, in cases of emergency, and for minor communal services performed by the members of a community in the direct interest of the community. The convention also requires that the illegal extraction of forced or compulsory Labor be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced.
- **Abolition of Forced Labor Convention, 1957 (No. 105):** This convention prohibits forced or compulsory Labor as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using Labor for purposes of economic development; as a means of Labor discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

2.5. Ending child labor

The Iraqi Labor Law commits to the elimination of child labor. Its inclusion in the Iraqi labor Law recognizes both that child labor is a major problem in Iraq and that it is a hindrance to development and the achievement of the SDGs.

According to the latest global data, 152 million children — 64 million girls and 88 million boys — are in child labor globally.²⁶ This means that almost one in 10 of all children worldwide are in work. Nearly half of all those in child labor — 73 million children in absolute terms — are in hazardous work that directly endangers their health, safety, and moral development. Children in forced labor, a worst form of child labor, is at 4.3 million.²⁷

In Iraq, it is reported that more than 575,000 children work instead of attending school.²⁸ In governorates that have experienced violence, up to 90% of children are out of school. Children are forced into work in a variety of often dangerous settings. Some work in agriculture and others work in industries such as construction, factory work and brick making. Children also work in the service industry and are involved in domestic work and street work. Children are sometimes burdened with excessive hours of housework or work in family businesses.

While child labor affects boys and girls, some of the worst forms of child labor impact girls disproportionately more than boys. Reporting on child labor indicates that in Iraq, the worst forms of child labor include recruitment into armed conflict, use in illegal activities such as drug trafficking, forced begging, and domestic work as a result of human trafficking and sexual exploitation. Sexual exploitation is reported in some areas where girls are used as “gifts” to settle disputes between tribes.²⁹

Box 4: Factors Contributing to Child Labor

1. Limited legal protections
2. Poverty and social vulnerability
3. Exposure to individual and collective shocks
4. Poor quality schooling, limited school access
5. Limited decent work opportunities, difficult transitions to work
6. Absence or weak realization of freedom of association and of the effective recognition of the right to collective bargaining, and of other forms of social dialogue.

Source: ILO, Ending Child Labor by 2025: A review of policies and programs, International Labor Office (ILO), Geneva, 2d ed., 2018

3. Gender Discrimination in the Workplace

3.1. Understanding the regional context for gender discrimination

According to ESCWA, women in the Arab region experience a wide range of discrimination in the workplace, especially in relation to hiring and conditions of employment. While countries in the region have adopted laws against discrimination in the workplace, there are very few mechanisms to ensure their actual application. In addition, legislation often fails to protect all groups of women, especially foreign workers who are at particular risk of abuse.³⁰ Foreign workers are especially at risk of experiencing discrimination in the workplace.³¹ Many workers are brought to the country illegally and have their passport confiscated by their employer upon entry. Many foreign workers endure poor living conditions and long work hours for little pay. Such workers fear retaliation by their employer should they complain of ill treatment and do not file claims of abuse and discrimination in the workplace.³²

Data shows that gender discrimination in work takes the following forms across the Arab region, including:

- **Gender gap in salaries** which causes differentiated access to resources between men and women workers. Research by the World Bank indicates that

the equal pay provisions that do exist in the region remain largely unenforced and undermined in practice.³³

- **Inequalities in non-wage benefits**, such as pension schemes, housing allowances and child subsidies. These benefits can represent significant amounts of money and are typically only paid to men in their capacity as head of household. Women also rarely have the same right as men to pass on their pension benefits to their families.
- **Social attitudes** about gender norms limit some women's ability to work outside of the home.
- **Legislation limiting women's access to certain professions** as well as their ability to work at night, in many Arab countries.
- **Placing burdens on employers** is common in the legislation in some Arab countries, such as requiring employers to guarantee female workers' protection and to provide them with transportation.

3.2. Non-discrimination and women in work

Protection against discrimination refers to the right of all women not to be treated less favorably in a work situation – including access to employment – because of their sex. This includes the right of women to be free of discrimination due to circumstances arising from their reproductive function.

As noted in Part 3, protection against discrimination is reflected in the Iraqi Labor Law and in Iraq's international commitments, including:

- **The ILO Convention No. 100, Equal Remuneration**, providing protection against wage discrimination and ensuring equal pay for work of equal value. The ILO Convention No. 111, Discrimination (Employment and Occupation), providing protection against discrimination in employment and occupation and measures for gender equality.
- **The ILO Convention No. 183, Maternity Protection**, which recognizes the fact that while discrimination might be suffered on the job by pregnant women and mothers, it can also negatively affect women in search of employment and therefore pre-emptive measures must be taken in order to prevent maternity from constituting a source of discrimination.

The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** protects against discrimination in employment (and other areas) on the basis of sex.

While Iraq did ratify CEDAW, it should be noted that it has not yet ratified the Optional Protocol on violence against women. In addition, Iraq maintains reservations under its ratification of CEDAW including several of particular importance to gender equality.

3.3. Direct and indirect discrimination in the Iraqi Labor Law

Direct and indirect discrimination is prohibited under the Iraqi Labor Law “in all matters relating to vocational training, recruitment, or the terms and conditions of employment” (Art. 8(1)). Direct discrimination is prohibited on the following grounds: Race, color, sex, religion, religious community, opinion or political belief, origin, or nationality. Indirect discrimination is prohibited on the following grounds: sex, age, health condition, economic or social condition, affiliation to a trade union, and trade union activity which has the effect of nullifying or impairing equality of opportunity or equality of treatment in employment and occupation.

3.4. Means of implementation and good practices

Legislation is most likely to be implemented effectively when accompanied by a comprehensive policy framework which includes a national action plan or strategy.

During the last ten years Iraq has adopted several strategies and policies that have a direct bearing on gender equality and the status of women. They address varying aspects of protection of women and enhance their participation in the reconstruction of the country. These include:

National Strategy to Combat Violence Against Women 2013 – 2017: The national strategy to combat violence against women was adopted by the Council of Ministers on in 2013 and its main objective is to inform State institutions and civil society in the protection of women and the realization of their human rights through the following measures: Legislation, Prevention, Protection, and Care. It aims to eliminate all forms of legal discrimination against women and provide them with legal protection, to raise awareness and education of communities about the causes of violence against women and its effects on women, the family, and society, to take measures to provide support and protection for women and girls from all forms of violence, and to improve the quality and level of services provided to victims of violence.

National Strategy for the Advancement of Women 2014-2018: The national strategy for development of Iraqi women was approved by the Council of Ministers on 1/4/2014 for the purpose of empowering women, enhancing their capabilities, and raising their status in order to enable their participation in policy- and decision-making in all areas. The strategy aims to create a legislative environment compatible with Articles 8-14 of the Constitution and Iraq’s international obligations, to increase enrollment rates of girls in secondary education from 77% to 100%, to develop reproductive health policy, and finally to increase female participation at the labor market and in decision-making positions during peace and conflict. The specialized women’s Institutions are supported by resources and have the authority to perform their duties in the best possible way.

National Strategy for Advancement of the Status of Women in the Kurdistan Region (2017-2027): The objective of the National Strategy is to empower women, improve gender equality and integrate women's rights in the institutional and governmental structure and policies. The strategy was built on the assessment of the opportunities to achieve strategic objectives, as the presence of political will and support, the existence of women's machinery, the existence of laws and policies that support women's issues and the presence of civil society organizations.

National Development Plan (NDP) 2018-2022: The national development plan for 2018-2022 was approved by the Council of Ministers on 1 April 2018 and integrates a women's empowerment dimension in human and social development addressing women's education, health, economic empowerment, and social contribution. In the field of education, proposed objectives include the empowerment of women through reducing school drop-out rates of girls and increasing enrollment of girls in primary education, particularly in the rural areas. They also include economic empowerment by enhancing women participation in the labor market and facilitating the access of poor and displaced women as well as heads of households to financial resources. The plan also aimed at improving health services for women and raising their awareness on the importance of early detection of breast cancer. Women's empowerment in the liberated areas from ISIL has also been set as a priority including provision of psychosocial and legal services.

There are several examples of other countries adopting plans of action addressing violence against women:

- In **Uruguay**, the Uruguayan Law for the Prevention, Early Detection, Attention to, and Eradication of Domestic Violence (2002) mandates the design of a national plan against domestic violence.
- In **Kenya**, Article 46 of the Kenyan Sexual Offences Act (2006) requires that the relevant Minister prepare a national policy framework to guide the implementation and administration of the Act and review the policy framework at least once every five years.
- In **Mexico**, the Mexican Law on Access of Women to a Life Free of Violence (2007) prioritizes the inclusion of measures and policies to address violence against women in the National Development Plan and obliges the Government to formulate and implement a national policy to prevent, address, sanction and eradicate violence against women.
- In **Jordan**, the government mandated the Law Regarding Protection from Domestic Violence (No. 6) in 2008 and ratified CEDAW in 2007. The government continues to provide periodic reports to CEDAW Committee.³⁴
- In **Saudi Arabia**, the "Protection from Abuse" (2013) law is a landmark piece of legislation that penalizes psychological or physical abuse with monetary fines

and prison sentences up to one year and provides anonymity to the victims of abuse or witnesses to abuse.³⁵

- In **Lebanon**, the “Law on Protection of Women and Family Members from Domestic Violence” (2014) allows women to file for restraining orders against their abuser.³⁶
- In **Bahrain**, the “Law on the Protection Against Domestic Violence” (2015) establishes a Family Guidance Department in the Ministry of Social Development to offer awareness and family guidance on domestic violence.³⁷

Labor Laws should be accompanied by the promulgation of regulations, protocols, guidelines, and standards to support effective implementation. This may take the form of legislation requiring that the relevant Minister(s), in collaboration with police, lawyers, prosecutors, judges, the health sector and the education sector, develop regulations, protocols, guidelines, instructions, directives and standards, including standardized forms, for the comprehensive and timely implementation of the legislation. There are some good examples of these practices, for instance:

- In **Georgia**, Article 21(3) of Georgia’s Law on Elimination of Domestic Violence, Protection of and Support to its Victims (2006) directs the Ministry of Internal Affairs to develop and approve, within one month of publication of the law, a standardized form for the emergency protection order issued by police.
- In **South Africa**, Sections 66 and 67 of the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (2007) provide detailed procedures for the development of national directives, instructions, and regulations.

4. Sexual Harassment and Hostile Work Environment

4.1. Understanding sexual harassment and hostile work environment

Violence and harassment produce severe consequences in the world of work. It deprives people of their dignity, undermines the concept of decent work, and represents a threat to equal opportunities and to safe, healthy, and productive working environments. All types of violence and harassment, including sexual harassment and sexual violence, are a widespread problem. This phenomenon persists in all countries and in all work sectors, occupations, and work arrangements. Protection against sexual harassment must occur in relation to all aspects of employment, including job search, vocational training, recruitment, work conditions and terms. Unfortunately, sexual harassment in the world of work is not well understood. For common myths about such conduct in the workplace, see Box 5.

Box 5: Common Myths About Sexual Violence and Harassment in the Workplace

MISCONCEPTION: “That doesn’t happen in our workplace.”

REALITY: Sexual violence and harassment, particularly against women, plague workplaces throughout the world, harassment being the more frequently reported. No workplace or environment is immune from such unacceptable behavior, which has the effect of harming a person’s dignity, security and psychological and physical health and creating a poisonous, damaging, and dangerous climate.

MISCONCEPTION: “No need for action. We have never had such cases and never will!”

REALITY: The fact that one is unaware of such conduct, or has not heard talk about it, does not mean it isn’t happening and never will. It is not a question of waiting for a case to arise before acting, but of adhering to the obligations of to respect the human rights of all who work. Employers in the public and private sector need to demonstrate that they are taking: (1) all preventive measures available to create a safe space and harassment-free work environment; and (2) all appropriate steps to seriously and impartially investigate and stop any attack on the safety and health of people working in parliament and taking disciplinary measures against the perpetrators.

In 2015, the Iraqi Women Journalists Forum partnered with the Iraqi Civil Society Solidarity Institute in administering a survey among 200 randomly selected Iraqi women from Baghdad and surrounding counties concerning general questions on the topics of physical threats, sexual abuse, violence, and harassment.³⁸ 77 percent of respondents claimed that they had been subjected to harassment, with 56 percent of these women specifying that they were subjected to verbal harassment and 20 percent were subjected to “harassment by touch”.³⁹ Moreover, 48 percent of these women claim they were pressured to perform sexual favors in return for advancements at work. The survey revealed that respondents within the ages of 31 to 40 had the highest proportion of reporting they were sexually harassed within this survey, with most of these women being either employees or students.⁴⁰ Data shows that there are factors that lead to situations of violence and harassment in the workplace.⁴¹ Such risk factors include but are not limited to:

Workplace relationships: Interpersonal relationships in the workplace are important factors for healthy working environments. Unwarranted or inappropriate criticism, exclusion at work, interpersonal conflict, and other negative interactions, including lack of support from supervisors and team members and lack of regular feedback and communication, are risk factors for negative acts such as bullying, violence and sexual harassment.

Job demands: Excessive job demands create stress such as sustained levels of either high or low physical, mental or emotional effort, such as giving assignments that are not matched to the individual’s knowledge and abilities. Jobs that contribute to increased stress may increase the risk, not only of fatigue, but also violence and harassment.

Job control factors: Work-related stress may happen when workers have little control over how or when their work is done, including when they have little say in how they do their work, when they can take breaks or change tasks, when they are not involved in decisions that affects them or their clients, or when they are unable to refuse dealing with aggressive clients (such as the police and other emergency services).

Job design: The way in which a job or particular task is designed may impact stress in the workplace. Harassing or bullying behavior may be a way of dealing with frustration or boredom in jobs where workers are not actively engaged. The nature of factory work (the pressure to keep the production line going) may, for example, give bosses power to inflict petty humiliations, such as denying bathroom breaks.

Job clarity: A lack of clarity such as when an individuals’ work responsibilities and degree of authority are unclear, and role conflict, when there is disagreement between worker and employer as expectations a particular role or duties that are unclear, too difficult, or disagreeable.

Leadership style: A style of leadership that is autocratic on the one hand or too laissez faire on the other.

Physical work environment: The physical work environment may pose dangers, such as inadequate lighting, poor ventilation, or noise all forms which may contribute to the risk of violence. For occupations that interact frequently with third parties, the physical work environment must be designed to protect workers from potentially aggressive clients, customers, colleagues, patients, or intruders.

Women may experience enhanced risk of work-related violence and harassment compared to men, due to the unequal gender relations. Certain groups of women tend to be more vulnerable to sexual violence and harassment, notably girls and young women, domestic workers, women with little job security, migrant women, and women in male-dominated occupations, and, more generally, in situations where large numbers of women are supervised by a small number of men. Illustratively, violence and harassment are prevalent in certain labor-intensive manufacturing industries (such as garments, textiles, electronics).

The adoption of **Convention No. 190 and Recommendation No. 206** by the International Labor Conference in 2019 recognizes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. See Box 6. The new ILO standard aims to protect workers and employees, irrespective of their contractual status, and includes persons in training, interns and apprentices, workers whose employment has been terminated, volunteers, job seekers and job applicants. It recognizes that “individuals exercising the authority, duties or responsibilities of an employer” can also be subjected to violence and harassment. **Convention No. 190** is new, and Iraq has not yet ratified the treaty and it has not yet entered into force.

Box 6: ILO Violence and Harassment Convention No. 190 and Recommendation No. 206

The standard covers violence and harassment occurring in the workplace; places where a worker is paid, takes a rest or meal break, or uses sanitary, washing or changing facilities; during work-related trips, travel, training, events, or social activities; work-related communications (including through information and communication technologies), in employer-provided accommodation; and when commuting to and from work. It also recognizes that violence and harassment may involve third parties.

The ILO Committee the ILO Committee of Experts listed a number of examples of sexual harassment in employment applying to both men and women. These include insults, inappropriate remarks, jokes, insinuations and comments on a person's dress, physique, age, or family situation; a condescending or paternalistic attitude with sexual implications undermining dignity; unwelcome invitations or requests that are implicit or explicit, whether or not accompanied by threats; lascivious looks or other gestures associated with sexuality; and unnecessary physical contact, such as touching, caresses, pinching or assault.

Sources: ILO Convention No. 190 and Recommendation No. 206; ILO, Labor Legislation Guidelines, Chapter VII

4.2. Rights of the worker to be free from harassment under the Iraqi Labor Law

Among the specific rights accorded to an employee under the Iraqi Labor Law, the employee has the right to a working environment free from any harassment. Harassment under the Law includes sexual harassment. It is broad in scope, meaning that sexual harassment is prohibited at all levels of employment, including job search, vocational training, recruitment or work conditions and terms. In addition, Article 10(2) prohibits other conduct “that creates a hostile, intimidating or offending work environment for those against whom this behavior is directed.” For the definition of “sexual harassment in the Labor Law, see Box 6 above.

Box 7: Sexual Harassment Defined in the Iraqi Labor Law

Sexual harassment in accordance with the provisions of this law is any physical or verbal conduct of a sexual nature or other conduct based on sex, affecting the dignity of women and men, which is undesirable and unreasonable and insulting to those who are victims of this conduct, and the rejection by any person of this conflict, leading explicitly or implicitly, to a decision affecting his job.

Source: Article 10(3), Iraqi Labor Law (2015).

4.3. Duties of the employer under Iraqi Labor Law

The employer has a range of duties under the Labor Law that relate specifically to the protection of employees from harassment and gender discrimination. All employer duties must be provided without discrimination and the law further provides that the employer must ensure equal treatment of all employees of the same professions and equal treatment of working conditions (Art. 41(2)(n)). In addition, the employer is responsible for ensuring healthy conditions at the workplace and must undertake safety measures to protect the worker while performing his/her job (Art. 41(2)(d)). Finally, the employer has the duty to provide a system for worker complaints and grievances.

4.4. Means of implementation and good practices

There are emerging good practices collected by the ILO from around the world that suggest effective strategies to implementing legislation on harassment and violence in the workplace. See Box 8.

In the Kurdistan Region of Iraq, in addition to undertaking law reform and adopting legislation on domestic violence, the Kurdish Regional Government has established

special domestic violence courts in the three Kurdish governorates, and a Special Directorate to follow-up on cases of gender-based violence in the region.

Several countries have introduced penalties for officials who fail to implement legislation on harassment and violence against. Such legislation or policies may provide that public official who deal with violence against women must act swiftly and effectively and adhere to the rights of women victims or risk being charged with the crime of dereliction of duty.⁴² Legislation may also provide penalties for authorities in centers of employment, education and other activities, health professionals, and justice system officials who fail to implement their responsibilities under the legislation.⁴³

Another strategy adopted by some countries is the establishment of a specific, multi-sectoral mechanism to oversee implementation of the legislation and report back to Parliament on a regular basis. The functions of such a mechanism should include:

- Information gathering and analysis;
- Interviews with complainants/survivors, advocates, attorneys, police, prosecutors, judges, probation officers and service providers regarding complainants/survivors' access to the legal system and the effectiveness of remedies, including obstacles faced by particular groups of women;
- The proposal of amendments to legislation if necessary; and
- Mandate adequate funding for the mechanism.

Data collection is another element of effective implementation of legislation on harassment and violence in the workplace. This includes the collection of statistics on the causes, consequences, and frequency of all forms of violence against women. Statistical data should be disaggregated by sex, race, age, ethnicity, and other relevant characteristics. See Box 9.

Box 8: ILO Good Implementation Practices to Create a Safe Work Environment

Adopt and implement, in consultation with workers and their representatives, a **workplace policy on violence and harassment**;

Take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;

Identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and **take measures to prevent and control them**; and

Provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers.

Source: ILO Convention No. 190 and Recommendation No. 126 on Violence and Harassment.

Box 9: Key Criteria for Assessing GBV and Health and Safety at Work

What is the national legal framework for health and safety at work? To what extent does it impose obligations on parliament as a workplace to counter sexist and/or sexual acts and violence? To what extent does it address employers in the public and the private sector?

How does this framework reflect international norms and standards?

Does your employer have rules directly prohibiting sexist acts, harassment, and violence against women?

Does your employer have rules that might address such violence indirectly?

Do these rules effectively protect all categories of people working for the employer?

Are these rules visible and well known?

Are these rules rigorously applied and perceived as effective and fair for all?

Are there easy avenues to seek legal assistance and redress?

Source: ILO, GBV publication

5. Equal Pay for Equal Work

“Pay equity promotes the well-being of families, increases enterprise competitiveness and advances national development. Commitment to pay equity is a commitment to decent work and social justice, and to economic success.”⁴⁴

5.1. Understanding the context for equal remuneration

Differences in remuneration between women and men exist in all countries. The difference between their earnings, expressed as a percentage of men’s earnings, is estimated to be 23% globally. In other words, women earn on average 77% of what men earn. This is known as the gender pay gap. Although this gap is slowly closing, at the current rate of progress the ILO estimates that it will take at least until 2086 to achieve pay equity around the world.⁴⁵

Across the Arab Region, the wage gap is deep. In some cases, the gender wage gap is over 50 per cent. In the Arab region, unemployment is concentrated among women and young persons. Moreover, research reveals that there is very low participation by women in the formal labor sector across the region.

The Sustainable Development Goals underscore the importance of full and productive employment and decent work for all women, including young people and persons with disabilities, and equal pay for work of equal value. In addition, SDG Goal 5 includes a target to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate. This reflects a realization that economic dynamics depend on the availability of care work. Yet, the unfair social organization of care (maintaining it as the domain of households and women) is the foundation of persistent gender inequalities both in the Arab Region and across the world. Recognizing and valuing care and domestic work requires legislative and policy changes.

5.2. Understanding the provisions in the Iraqi Labor Law on equal pay for equal work

The employer is required under the Labor Law to protect employees from gender discrimination, including in the area of equal pay for equal work. The Labor Law provides that the employer must ensure equal treatment of all employees in the same professions and equal treatment of working conditions (Art. 41(2)(n)). The Law specifies that equal pay for equal work includes wages, benefits, bonuses, allowances, vocational training, and career advancement opportunities. Finally, the employer has the duty to provide a system for worker complaints and grievances meaning the worker has the right to challenge the employer for failing to provide equal pay for equal work (Art. 41(2)(j)).

5.3. Means of implementation and good practices

The principal international treaties mandating equal pay for equal work are the (1) ILO Convention No. 100, the Convention concerning Equal Remuneration for Men and Women Workers or Work of Equal Value, 1951; and the (2) Convention on the Elimination of All Forms of Discrimination against Women. In addition, the ILO Recommendation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value provides more specific guidance on recommended measures for implementing equal pay for equal work. These include:

- Adopt explicit legislation guaranteeing equal pay for men and women workers for work of equal value.
- Ensure that employers and workers are fully informed about the requirement of equal pay for equal work.
- Establish methods for making an objective appraisal of work to be performed, such as through job analysis or other procedures, to develop a job classification system without regard to sex.
- Develop an employment and wage-led development strategy entailing active distribution and income policies, including minimum wage legislation, strengthening social security systems and union operations.⁴⁶

Other organizations have made reduction of the gender pay gap a major priority. The Organization for Economic Cooperation and Development, for example, emphasizes:

- Enacting pay equality and equity laws and regulations, tools, and regular pay assessments in public and private sector institutions, including the identification of the predominantly female and male job classes and the evaluation of compensation differences among them and of the need for adjustments;
- Performing regular and objective desk audits, targeting low-paid and/or female-dominated sectors to ensure pay equality and equity and implementing policy recommendations based on their results; and
- Ensuring effective channels of recourse for challenging the gender wage gap, for example by considering independent complaint and legal recourse mechanisms for non-compliance.
- Engaging and encourage employers to examine their own pay practices, identify and possible gender wage discrimination;
- Ensuring all relevant stakeholders are involved in the design and the implementation of measures to close gender pay gap.⁴⁷

Countries are making headway in applying these measures. For some examples, see Box 10.

Box 10: Good Practices to Promote Pay Equity

- In 2018 Iceland adopted legislation that requires companies to demonstrate that their wages are fair. The legislation requires any public or private entity employing more than 25 people to be independently certified by as paying equal wages for work of equal value by 2022 or face a fine.
- In 2018, Germany adopted legislation allowing workers at companies with more than 200 employees to find out the median wage of a colleague of the opposite sex in the same or comparable role. The median compensation is based on that of at least six opposite sex colleagues.
- In Portugal, cooperation between employers' and workers' organizations with the Government resulted in the implementation of a gender-neutral method for evaluating jobs in order to achieve pay equity for women and men in the hotel, catering, and tourism sector. The evaluation method uses profiles of workers' skills combined with demands of the job in terms of effort and responsibilities and working conditions. These profiles are used during negotiations about pay so that women and men are more equally remunerated.

Sources: ILO Study, Info Notes, Tackling Sex Discrimination Through Pay Equity

6. Maternity Protection, Work and Family

"Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security."⁴⁸

6.1. Understanding the context for maternity protection, work, and family

Maternity protection for women workers contributes to the health and well-being of mothers and their babies, and thus to the achievement of the SDGs, which seek the reduction of child mortality and improvement of the health of mothers. Safeguarding women's employment and income security during and after maternity is crucial for promoting gender equality and women's empowerment.

Maternity protection has two main objectives. The first objective is to preserve the health of the mother and her newborn. The second is to provide the working mother with a measure of job and income security (protection from dismissal and discrimination, the right to resume work after leave, and maintenance of wages and incomes during maternity).

Protective measures for pregnant women as well as women who have recently given birth include:

- The prevention of exposure to health and safety hazards during and after pregnancy;
- Entitlement to paid maternity leave;
- Entitlement to breastfeeding breaks;
- Protection against discrimination and dismissal; and
- A guaranteed right to return to the job after maternity leave.

The ILO emphasizes that any prohibition on women's access to certain occupations and jobs must be genuinely linked to the need to protect their reproductive health. At the same time, health protection against specific hazards should be available to all workers irrespective of their sex. Special measures for the benefit of women should only be taken for work that has been proven to be potentially prejudicial to reproduction, and this should be kept under continuous review to account for changes in scientific knowledge about such risks. It is important to ensure that any maternity related protections do not create barriers to achieving women's equality in the labor force, since employers may be reluctant to hire and retain workers who enjoy additional benefits (such as the transfer of women workers away from work involving chemical substances dangerous to fertility).⁴⁹

In the Middle East, reliance on social security is the lowest of all regions, and more than four-fifths (82 per cent) of countries in this region rely on employer liability systems. Improving the financing and the length of maternity leave in order to protect working women and their children remains a challenge, as eight of the ten countries considered fall short on length and rely on employer liability systems.⁵⁰

Because of the disproportionate share of time spent in unpaid care work, women who work for pay are often said to work a “second shift” – one at work and another at home.⁵¹ This has negative consequences for the health and well-being of women, in the form of sleep deprivation and anxiety. Women and men agree that unpaid care responsibilities, including balancing work and family and lack of access to care services and infrastructure, constitute a substantial challenge for women. Yet, while women and men recognize the challenges, men are still not taking on their fair share of unpaid work, and social protection systems in many countries continue to be designed based on the assumption that women will take on this double role.

In addition to maternity leave, measures safeguarding the employment of pregnant workers and combating discrimination based on maternity are essential to maternity protection. Risks at the workplace can impact the health of the woman and her child during pregnancy and breastfeeding. Measures to protect the pregnant or nursing woman from such risks include:

- Adaptations to the working conditions, for example with regard to the arrangement of working time.
- Avoidance of risks related to dangerous or unhealthy work which could involve transferring a woman to other tasks or allowing her to take leave early.
- Ensuring a mother's right to continue breastfeeding upon return to work and providing access to facilities for nursing under adequate hygienic conditions.

Box 11: Protection for Nursing Women and Her Child at Work

ILO Convention No. 183, Maternity Protection, recognizes the right to health protection for pregnant or nursing women. The Convention recognizes that breastfeeding has major benefits for both the mother. Article 3 provides:

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Source: ILO Convention No. 183, Maternity Protection, Article 3.

The most significant legislative gap relates to provisions on maternity leave. According to research conducted by the ILO, very few Arab countries currently meet the international standard of ensuring a minimum of 14 weeks of maternity leave, and the duration of maternity leave established by the law falls below this mark in most Arab States.⁵² Women with short maternity leave and the limited availability and cost of early childcare and education leave many women without much option for childcare until their children reach school age. A second major barrier is pushing the costs of maternity leave are borne by the employer in the majority of Arab countries, including in Iraq. These barriers indirectly reinforce gender discrimination in employment, because they create additional costs which strongly discourage employers from recruiting women of child-bearing age.

ILO maternity standards require legislation against discrimination in employment, including access to employment, dismissal, and the maintenance of employment benefits during leave. At a minimum, such standards should prohibit dismissal as a result of pregnancy or during periods of leave. Some countries also consider the period of leave to be a period of service for the determination of employment rights. This means that maternity leave does not compromise the accrual of benefits, for example. During pregnancy and breastfeeding, there may be risks at the workplace that could affect the health of the woman and her child and therefore many countries include provisions in their legislation to protect pregnant or nursing women. An ILO

review of national legislation from work-related risks, including requiring risk assessments or specifying dangerous substances that must be avoided. If a significant risk exists at the workplace, legislation often requires that employers take measures to mediate those risks by transferring a woman to other tasks or allowing her to take leave early. The right to continue breastfeeding upon return to work and access to appropriate and hygienic facilities for nursing are also important for the health of the mother and her child. ILO standards require breastfeeding breaks in addition to regular breaks.

6.2. Understanding maternity protection in the Iraqi Labor Law

The Iraqi Labor Law contains a chapter devoted to the protection of the female worker (Chapter 10). Employers are required to undertake specific measures to ensure protection for female workers, including pregnant workers, working mothers and nursing mothers. Employers must keep a copy of female workplace protections where any female worker(s) is employed.

Key protections include the following:

Protection against Harmful Labor: The Labor Law provides protection against being required to undertake labor that is harmful or arduous. Two categories of protection are set out in Article 85 of the Labor Law. First, pregnant or nursing mothers may not perform work activities deemed harmful to mother or child or where medical exam discloses harm to health of mother or child. Second, Article 85 provides that women may not be recruited to undertake arduous or harmful labor as specified by the National Center for Occupational Health and Safety.

Entitlement to Rest Periods for Women Workers: Article 86 of the Labor Law provides that female workers are entitled to a rest period of at least 11 consecutive hours, including seven hours falling between 9 pm and 6 am.

Work at Night: The Labor Law prohibits requiring women to work at night, with some exceptions for emergency situations or for certain types of work that is administrative or commercial in nature, in health or recreational services, and transport or communication services.

Maternity Leave and Job Protection: The Labor Law provides that maternity leave is required to be given for a minimum period of 14 weeks, with full pay. An extension of maternity leave is also possible under certain circumstances. In addition, the Law provides that working mothers must be provided the opportunity to return to the same position or to be employed in a similar position at the end of her maternity leave. Maternity leave recognizes the mother's right to a period of rest in relation to childbirth and is an important means of safeguarding her health and that of her child

immediately before or after birth, in view of the particular physiological demands associated with pregnancy and childbirth.

Breastfeeding Arrangements at Work: Nursing mothers are entitled to a nursing break of up to one hour under the Labor Law (Article 91). This provision recognizes that the right to breastfeed a child after returning to work is an important part of maternity protection, which has major benefits for the mother and child's health. The World Health Organization recommends exclusive breastfeeding of babies until the age of 6 months, meaning that no food or liquid other than breast milk, not even water, is given to the infant. It also recommends that breastfeeding should continue for up to two years or beyond, with the introduction of appropriate complementary foods.⁵³ As the maternity leave period in Iraq expires within 14 weeks, the provision to enable women to continue to breastfeed upon return to work is in the best health interests of mother and child. For examples of good practice in this context, see Box 12.

Box 12: ILO Good Practices for Making the Workplace Friendly for Nursing Mothers

Several concrete options exist to make the workplace more breastfeeding-friendly. They include the following:

Time: Maternity leave, parental leaves, flexible hours, more breaks, attention to parents' needs regarding children's schedules

Space: Comfortable, private facilities for expressing breast milk, access to a fridge to store milk, a clean and safe work environment, day care facilities if feasible

Support: Policy, information, discussions, consultations in support of breastfeeding and of family-related entitlements

Source: ILO, Maternity Protection Resource Package, From Inspiration to Reality for All, Module 2, Maternity Protection at Work in Depth, The Core Elements.

Parental Leave: Mothers and father who have one or more children under the age of six are entitled to up to three days of unpaid leave to attend to the needs of a sick child.

6.3. Means of implementation and good practices

Virtually every country across the globe has adopted some type of maternity protection legislation. The International Labor Organization has addressed the subject of maternity protection since its founding and three ILO Conventions address maternity protection:

- Maternity Protection Convention, 1919 (No. 3),

- Maternity Protection Convention (Revised), 1952 (No. 103); and
- Maternity Protection Convention, 2000 (No. 183).

Convention No. 183 and Recommendation No. 191 (2000) together set out five core elements of maternity protection:

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

Box 13: Maternity Protection and Good Practices in Law and Policy

- Several countries have established safeguards that prohibit the dismissal of women during maternity leave, a good practice.
- An essential step in addressing the disincentive in hiring women of child-bearing age is the financing of maternity benefits through mandatory payroll contributions or through other public funding means.
- Jordan has recently initiated a reform in social insurance, which finances maternity benefits through payroll contributions mandatory for all workers. The 2010 adoption of a new social security law complemented the social insurance package with unemployment and maternity benefits. A major aim of the legal reform was to increase labor market participation and social insurance enrolment among women. Notably, the maternity benefits are entirely financed by a gender-neutral contribution increase, in other words there is no economic disincentive for employers to hire women, unlike in schemes requiring employers to bear to costs for maternity leave. In Tanzania, the ILO worked with its stakeholders to publish a small comic book explaining in a user-friendly way which rights employees are entitled to when it comes to maternity. It covers most of the points listed in the ILO Convention on Maternity Protection, 2000 (No. 183) such as duration of leave, health protection at work, breastfeeding rights, and the right to

return to work. It also explains how maternity protection can benefit employers.

- In Cambodia, the ILO Better Factories Cambodia program, in collaboration with local stakeholders, released a short soap opera in eight episodes on labor rights at the workplace. Episode 5 was on maternity and breastfeeding rights, including maternity leave, the importance of breastfeeding for child health, and cash benefit entitlements for pregnant and lactating women.

Source: ESCWA, 2019. Social protection Reform in Arab Countries

7. Accessing Remedies

7.1. Understanding the importance of accessible remedies

An individual who has been subject to discrimination or ill-treatment in the workplace must have an opportunity to make a claim before a judicial or administrative tribunal or other grievance mechanism. Access to grievance mechanisms provide an opportunity to redress or remedy discrimination and helps to empower women to defend their rights. This means that national labour laws and regulations should be monitored and enforced, including provisions on violence and harassment in the world of work. Remedies should be accessible and appropriate. It is also important for the reporting process and dispute resolution mechanisms and procedures to be safe, fair, and effective. At the level of the workplace, there should be complaint and investigation procedures in place to address complaints of violence and harassment.

7.2. Access to justice for victims of gender-based discrimination and violence and work grievances under the Iraqi Labor Law

Article 41(j) of the Iraqi Labor Law requires the employer to provide an appropriate system for addressing worker complaints and grievances. The employer is also required to facilitate access to dispute settlement mechanisms quickly and without any retribution to the complainant. This assumes a potential role for lawyers in assisting employers in the design of grievance systems. It also provides an important opportunity for lawyers to assist employers in developing policies to advance gender equality in the world of work, consistent with the aims of the Iraqi labor Law.

A. Labor Court Complaints

Iraqi labor courts govern disputes arising from employment agreements. These courts have jurisdiction over civil and penal actions, matters and disputes referred to in the New Labor Law, the Pension and Social Security Law for Workers and temporary decisions involving actions within the jurisdiction of the Labor Courts.

B. Means of implementation and good practices

Workers who have experienced discrimination should be able to benefit from effective remedies. Effective remedies serve to assist victims in finding redress and they play a role in dissuading perpetrators of discriminatory practices. There are, however, many barriers to seeking and receiving redress for discrimination based on sex, harassment, and related grievances.

The ILO reports that a major obstacle preventing any worker from exercising his or her rights is a lack of awareness about their rights.⁵⁴ This is especially the case for rights concerning gender equality. Research on legal assistance for women in Iraq discloses numerous barriers. Women who have experienced gender-based violence are often unable to hire a lawyer due to their lack of financial independence.⁵⁵ Research shows that workers tend not to make use of labor law mechanisms to seek redress for a grievance because of lack of information or inaccessibility of complaints processes, fear of retaliation, or because they are excluded from the protections of the labor law, as is the case for many informal workers or migrant domestic workers across the world.⁵⁶

Cost, location, and distrust of the legal system are also frequent barriers to meaningful access to redress. To ensure compliance and implementation, a range of issues need to be addressed, including the cost and speed of enforcement mechanisms, the burden of proof, the availability of legal aid, protection against retaliation and sufficiency of redress. The ILO emphasizes that this requires the involvement of both State and non-State bodies, such as labor inspectorates, trade unions, employers' organizations, and civil society organizations. Importantly, when labor inspectors are well-equipped and trained to handle gender equality issues, they can play a major role in ensuring the application in practice of the principle of equal treatment and non-discrimination.

Finally, research shows that workers very often face risks in bringing complaints. There is broad agreement that it is most effective to have available a wide range of possible penalties and sanctions to apply in discrimination cases.⁵⁷

The ILO has collected good practices for courts and tribunals in ensuring gender equality. These include:

- Protecting against victimization of or retaliation against complainants, victims, witnesses, and whistle-blowers;
- Providing legal, social, medical, and administrative support measures for complainants and victims, including referrals and links to services, including information about available supports;
- Protecting the privacy of those individuals involved and confidentiality, to the extent possible and as appropriate, and ensuring that requirements for privacy and confidentiality are not misused;
- Providing for sanctions, where appropriate, in cases of violence and harassment in the world of work;
- Ensuring that workers have the right to remove themselves from a work situation where they have a reasonable justification for fearing an imminent and serious danger to life, health, or safety due to violence and harassment, without suffering retaliation or other undue consequences, and the duty to inform management; and
- Ensuring that labor inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment in the world of work, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health, or safety, subject to any right of appeal to a judicial or administrative authority which may be provided by law.

Box 14: ILO Convention Concerning the Elimination of Violence and Harassment in the World of Work (2019) and Recommendation

This is a new ILO Convention that has not yet entered into force, nor has it yet been ratified by Iraq. It does provide practical guidance, including on remedies that should be made available to victims of violence and harassment.

Suggested remedies for violence and harassment:

(a) The right to resign with compensation; (b) reinstatement; (c) appropriate compensation for damages; (d) orders requiring measures with immediate executory force to be taken to ensure that certain conduct is stopped or that policies or practices are changed; and (d) legal fees and costs according to national law and practice.

Victims of violence and harassment in the world of work should have access to compensation in cases of psychosocial, physical or any other injury or illness which results in incapacity to work.

Complaints and dispute resolution mechanisms for gender-based violence and harassment:

(a) courts with expertise in cases of gender-based violence and harassment; (b) timely and efficient processing; (c) legal advice and assistance for complainants and victims; (d) guides and other information resources available and accessible in the languages that are widely spoken in the country; and (e) shifting of the burden of proof, as appropriate, in proceedings other than criminal proceedings.

Support, services, and remedies for victims of gender-based violence and harassment:

(a) support to help victims re-enter the Labor market; (b) counselling and information services, in an accessible manner as appropriate; (c) 24-hour hotlines; (d) emergency services; (e) medical care and treatment and psychological support; (f) crisis centers, including shelters; and (g) specialized police units or specially trained officers to support victims.

Measures to mitigate the impacts of domestic violence in the world of work:

(a) leave for victims of domestic violence; (b) flexible work arrangements and protection for victims of domestic violence; (c) temporary protection against dismissal for victims of domestic violence, as appropriate, except on grounds unrelated to domestic violence and its consequences; (d) the inclusion of domestic violence in workplace risk assessments; (e) a referral system to public mitigation

measures for domestic violence, where they exist; and (f) awareness-raising about the effects of domestic violence.

Training for Labor inspectors:

Labor inspectors and officials of other competent authorities, as appropriate, should undergo gender-responsive training aimed at assisting them to identify and address violence and harassment in workplaces. Such training should include coverage of psychosocial hazards and risks, gender-based violence and harassment, and discrimination against particular groups of workers.

National bodies specifically mandated to address violence and harassment:

National bodies, including those bodies responsible for Labor inspection, occupational safety and health, and equality and non-discrimination, should include in their mandates the issues of violence and harassment in the world of work.

Data and statistics on violence and harassment in the workplace:

National bodies should make efforts to collect and publish statistics on violence and harassment in the world of work disaggregated by sex, form of violence and harassment, and sector of economic activity.

Source: ILO Recommendation

Accountability for perpetrators:

Perpetrators of violence and harassment in the world of work should be held accountable for their conduct.

Even though the Iraqi Constitution explicitly prohibits all forms of abuse and violence within the family, the only law that specifically addresses incidents of domestic violence is enforced within the Kurdistan Region of Iraq. Instead, Iraq's criminal code, which is enforced throughout Iraq, addresses physical assault, but fails to explicitly include domestic violence under this category. The criminal code outlines reduced sentences for violent acts including murder, for catching one's female relative or wife in adulterous acts, and for crimes with "honorable motives". Moreover, husbands are provided a legal right to discipline their wife and parents are allowed to punish their children within the boundaries of established laws or customs.

The law that combats domestic violence within the Kurdistan Region of Iraq was passed by the Parliament of Kurdistan in 2011. It consists of ten articles and defines what constitutes and how victims can report these acts. The law explicitly forbids

any person from committing an act of violence of a physical, sexual, or psychological nature within the family. Examples of domestic violence are listed in Article 2 and include, but are not limited to, acts of forced marriage, female genital mutilation, forcing family members to quit their jobs or withdraw from schooling, and beating and assaulting children and other family members. It outlines legal recourse open for victims of domestic violence.

Source: Iraq: Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 8 of 2011) [Iraq], 21 June 2011

Box 15: Approaching to Ensuring Access to Justice for GBV at Work

Research from across the globe reveals possible approaches to enhancing access to justice for gender-based violence and work-related grievances. Some of these measures that should be undertaken by States include:

- **Baseline research and data collection:** Conducting research to identify the needs of women exposed to GBV at work.
- **Capacity building and support for employers:** Increasing the capacity of employers to adopt codes of conducts that explicitly address GBV in the workplace.
- **Victim supports:** Psychological counselling, financial assistance, housing, education, training, and assistance in finding alternative employment where appropriate and ensuring that victims have access to health care and social services and that services are adequately resourced and have professionals are trained to assist victims and refer them to the appropriate services.
- **Specialist support services for victims:** Specialist women's support services to all women victims of violence and their children.
- **Legal Assistance for Victims:** Improving legal aid services and their ability to accommodate the specific needs of women, including specialized legal training and guidelines for working with female clients. Expanding networks of lawyers who handle GBV cases.
- **Legal Education:** Provision of continuing legal education on sexism and harassment in the workplace and GBV. Inclusion of these topics in regular law school curriculum. Clinical legal education programs where GBV legal clinics provide support for GBV cases and employee grievances.
- **Access to Justice:** Delivery of legal aid through mobile legal clinics that provide basic legal education about GBV and remedies available.
- **Policy reform** to provide clear policies and processes that outline special steps to be taken by employers in work-related grievances, by law enforcement in GBV cases and by justice system actors.

8. Way Forward

Implementation of the gender equality provisions of the Iraqi Labor Law assumes important roles for a variety of stakeholders—lawyers, judges, government institutions, labor inspectors, companies, and civil society organizations. The role of lawyers is essential in ensuring that where rights are violated in the world of work resulting in gender discrimination, victims may seek justice under the Labor Law. Beyond acquiring expertise in the law and process of gender equality, Iraqi lawyers can meet the challenges and opportunities provided un the 2015 Labor Law in the following ways:

- Sensitizing employers on the gender equality provisions of the Iraqi labor Law.
- Drafting gender inclusive policies for Iraqi companies.
- Sensitizing employees on their rights under the Iraqi Labor Law, for example through women’s civil society organizations or unions.
- Ensuring coverage of gender equality provisions under labor law in legal education and continuing legal education.

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Annexes

Annex 1: List of International Labor Conventions Ratified by Iraq

Iraq has ratified or acceded to the following ILO Conventions:C001:

- C001: Hours of Work (Industry) Convention
- C014: Weekly Rest (Industry) Convention
- C017: Workmen's Compensation (Accidents) Convention
- C018: Workmen's Compensation (Occupational Diseases) Convention
- **C019: Equality of Treatment (Accident Compensation) Convention**
- C026: Minimum-Wage-Fixing Machinery Convention
- C029: Forced Labor Convention
- C030: Hours of Work (Commerce and Offices) Convention
- C042: Workmen's Compensation (Occupational Diseases) Convention
- C052: Holidays with Pay Convention
- C081: Labor Inspection Convention
- C087: Freedom of Association and Protection of the Right to Organize Convention
- C089: Night Work (Women) Convention (Revised)

- C094: Labor Clauses (Public Contracts) Convention
- C095: Protection of Wages Convention
- C098: Right to Organize and Collective Bargaining Convention
- **C100: Equal Remuneration Convention**
- C105: Abolition of Forced Labor Convention
- C106: Weekly Rest (Commerce and Offices) Convention
- C107: Indigenous and Tribal Populations Convention
- C111: Discrimination (Employment and Occupation) Convention
- C118: Equality of Treatment (Social Security) Convention
- C120: Hygiene (Commerce and Offices) Convention
- C122: Employment Policy Convention
- C131: Minimum Wage Fixing Convention
- C132: Holidays with Pay Convention
- C135: Workers' Representatives Convention
- C138: Minimum Age Convention
- C140: Paid Educational Leave Convention
- C142: Human Resources Development Convention
- C149: Nursing Personnel Convention
- C167: Safety and Health in Construction Convention
- C172: Working Conditions (hotels and restaurants) Convention
- C182: Worst Forms of Child Labor Convention
- **C183 Maternity Protection Convention***

*This Convention has been ratified domestically by Iraq and is pending registration and the deposit of Iraq's instrument of ratification which will make it effective at the international level.

Annex 2: Key Terms

Convention – Written and legally binding agreement between states. This is another term for “treaty” or “international agreement.” Reference is made to various international conventions during the course.

Gender –The roles, behaviors, activities, attributes, and opportunities that any society considers appropriate for girls and boys, women, and men.

Gender equality – Refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and

men. Gender equality is not a women's issue but should concern and fully engage men as well as women. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centered development.

Sustainable Development Goals – internationally agreed upon development goals adopted by the international community under the auspices of the United Nations and running between 2015-2030.

About the Authors

PartnersGlobal serves as a catalyst, helping to transform the way individuals, communities, businesses, and government institutions come together cooperatively for a more peaceful, inclusive, democratic, and prosperous world. We do this by acting as an integrator of global and local change makers. We foster the conditions for peace by channeling the right resources, harnessing momentum, and fostering collaboration. We cultivate respectful, trusting relationships that link different actors so they can uncover common goals and generate creative solutions to achieve greater impact.

New-Rule LLC (New-Rule) is an international organization which has provided technical assistance since 2013 to promote the rule of law, economic opportunity, and inclusive governance, with a focus on non-discrimination of marginalized and vulnerable populations. New-Rule's work in the field of gender inclusion and human rights includes litigating at the European Court of Human Rights, advising the Iraqi Parliament and Ministry of Justice on constitutional and international law, and advancing gender inclusion in the context of vocational educational and training for the World Bank project, participating in negotiations for the United Nations (UN) Convention on the Rights of Persons with Disabilities and the UN Working Group on Principles and Guidelines on Access to Legal Aid, and supporting the establishment of other national human rights institutions.