



Human Resources and  
Social Development

# **Analysis of Legislative Frameworks, Procedures and Practices Regulating Work from Gender Perspective to Achieve Gender Balance**

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## Executive Summary

### Legislative Frameworks on Gender Equality

Achieving gender balance in the labor market requires an in-depth analysis of legislative frameworks, procedures and practices related to women's work environment, its suitability for needs, legal protections, and adjustment proposals to be more considerate and sensitive to achieve balance. This report provides a presentation on gender-based discrimination as it affects women's economic opportunities and shows an imbalance in opportunities. By reviewing the regulatory frameworks, the report documents significant and persistent progress towards balance, in addition to constraints on equal opportunities, particularly with regard to decision-making positions. In addition, the report emphasizes that the fundamental reality that renders the process of formulating gender-sensitive policies and procedures necessary is that we live in a society where men and women are in different ways of life with different living conditions and needs. Therefore, community policies and practices affect men and women differently. HR departments must ensure that gender perspective is integrated into all policies, procedures and practices regulating women's work, formulating of the same requires awareness of their impact and how they can be better designed to achieve and balance outcomes that meet needs of women and men. The analysis revealed positive associations between improvements in policies and procedures regulating women's work and many labor market outcomes, and they had a slight, but growing over time, effect on the impact of policies and procedures that increase women's participation in the workforce.

The analysis of frameworks regulating work is based on its understanding of policies/procedures or regulations impact on females through:

- Query on the assumption that policies, procedures and practices are "gender neutral" in their impact.
- Identify implicit and explicit gender issues.
- Assess whether policies, procedures and regulations will perpetuate or change the existence of gender imbalance.
- Determine whether and to what extent the proposed policies, procedures and regulations will promote the equal opportunities of women and men.
- To monitor the reality of gender balance in the Kingdom's labor market, we compare the applicable legislative frameworks and the developments they have witnessed, and the standards set forth in the international agreements, conventions and recommendations on balancing the scope of work. This is to access what has been accomplished and identify gaps, if any, to make recommendations thereon. To do so, this report attempts to answer key questions, including:

- What is the right to work? Do local laws guarantee the right to work?
- What is gender discrimination in work?
- Is there employment and occupation discrimination on specific grounds, including gender, in terms of work conditions and terms, access to vocational training and employment, and employment benefits?
- Is there a wage discrimination between male and female employees for work of equal value?
- What measures should be taken to prevent discrimination against women on the grounds of marriage or maternity in order to guarantee their effective right to work?
- When may the number or income of a pregnant woman's job be compromised? Does the law give the working women additional rights during pregnancy?
- Do the laws protect family-responsible individuals who are in charge of the maintenance of children and other direct family members and aim to facilitate their employment without discrimination resulting from such family responsibilities?

- What is sexual harassment at work? Is it the duty of the employer to prevent sexual harassment/molestation?
- What are the advantages of employment and occupation in terms of work conditions and terms, access to vocational training and employment, and benefits of work?

- Having reviewed the legislative and regulatory frameworks governing work, we find that the Kingdom has taken advanced steps on ways to achieve gender balance. As for the scope of work or other regulations regulating work, we find that these regulations apply to both men and women and emphasize the following:
  - There are two main challenges: The first challenge is concerned with the lack of provisions in laws and regulations that explicitly address gender balance. The challenge is based on inadequate systems and mechanisms to ensure gender balance, such as positive discrimination, in order to realize equity. The second challenge is concerned with processes and procedures of HR departments, which must include positive and temporary measures to realize the desired gender balance within the public sector, and develop corrective plans, for example, to increase women's representation in decision-making positions, at all levels and in all job categories.
  - The Civil Affairs Law guaranteed many rights of women; for example, a woman can choose where to live in the same way a man can. There are no restrictions preventing her from going outside her home and traveling outside the Kingdom in the same way as man, i.e. participation in conferences and working meetings. Women can also apply for a passport with the same facilities granted to men.
  - As for entry into the labor market, there is no law prohibiting employment discrimination based on gender. Within the context of women work, the laws protect them from harassment, in addition to deterrent criminal penalties to prevent sexual harassment at work. As for wages, laws and instructions also protect them from discrimination. The Ministerial Decree No. 1/2370 dated 18 September 2010 imposes equal wage on work of equal value. Women can also retire at the same age as men. Moreover, the laws also guaranteed being protected during pregnancy as they take a 70 day-paid leave. The government covers 100% of maternity leave benefits. In addition, the Law also gives fathers three days' paternity leave. The Law also prohibits the dismissal of pregnant workers.
  - There is also nothing to prevent a woman from getting a job in the private sector in the same way as a man. The provisions of the Labor Law prohibiting discrimination also apply. Other regulations protect women's right regarding private employment, including that the law prohibits discrimination in access to credit on the basis of gender. Women can sign contracts, register a project of their own, open a bank account and have equal property rights to immovable property. Besides, they can work the same hours at night as men, or they can work in jobs that are defined as dangerous as men. The law defined such jobs as mining, energy and water, and it did not define whether work in construction, factories, agriculture and transportation are prohibited. Furthermore, the law did not place any restrictions if the jobs are considered arduous.
  - Recognition of equal work opportunities principle for men and women in the public and private sectors, especially in employment, promotion and contract termination.
  - Equality of opportunities to all citizens without discrimination in all civil, political, economic and social rights in accordance with the provisions of the Basic Law of Governance.
  - Consideration of work as a right for all citizens and provided by the Kingdom on the basis of competence, integrity and fair remunerations.
  - Determination of compensation in cases of dismissal, illness, disability and emergencies arising from work.
  - Ensuring that women are able to balance family duties and work requirements by providing maternity and childhood care and protection.
  - Guarantee of work benefits in terms of wages, social insurance and occupational health insurance.

- Inclusion of maternity leave benefits such as paid leave before and after childbirth, ensuring return to work after maternity leave, the possibility of childcare upon resumption of work, and calculation of absenteeism due to childcare in retirement benefits.
  - Granting a three-day parental short leave to fathers to maintain family responsibility.
  - Granting opportunities to women to apply and access available jobs in addition to non-discrimination against their right to employment.
  - Empowerment of women to retire at the same age as men and to receive a full pension.
  - Adoption of flexible working conditions that can promote gender balance in the workplace.
- Key conclusions and recommendations from the review of legislative frameworks regulating work.
- The review confirmed that there are no legal obstacles against the integration of women into the labor market. In many ways, as mentioned, the past years have been decisive for women, whether in the private sector or in the workplace. Not only were many policies enacted to ensure gender balance, but working women were also a high legislative priority and a significant focus in the policies and legislations that were recognized. Many practices have yet to be changed to ensure equal employment opportunities. For example, employers are required to provide workers' salary details to further address unequal pay, especially in the private sector.
  - All labor standards apply to men and women in the Kingdom. Nevertheless, the gap remains between the rights supporting balance and the reality of actual work conditions, especially in terms of women's access to leadership positions, which calling for efforts to convert the rights granted by the Labor Law, other legislative frameworks and supportive national initiatives into more achievements on the ground. One of obstacles, for example, is the culture of work environment. Awareness of the need for balance must therefore be raised, and this review is only a modest step in this direction. Although the legislative frameworks include an explicit prohibition of direct discrimination against women in the public and private sectors, they do not explicitly prohibit indirect discrimination, for example during employment, in the event of equal qualifications and experience. Women continue to face imbalances in terms of promotions and senior positions, which require a special policy to balance laws and regulations.
  - The review indicates that the effective implementation of legal obligations requires their incorporation at all other legislative levels and that in order to move forward to realizing gender balance. Besides, legal reform should go hand in hand with specific implementation strategies and budget allocations to achieve balance, to ensure real change and achieve greater gender balance, for example by ensuring balanced development opportunities to women and men at all levels.
  - Procedures to strengthen women's role in decision-making through positive programs or measures should be taken, such as temporary quotas or interim targets in public governance structures, vocational guidance, training and mentoring. These procedures can be complemented by providing opportunities to develop women leaders and equal access to senior positions. In order to increase women's representation in sectors that are traditionally underrepresented, the following is recommended:
    - Integrate gender balance targets into the performance appraisal requirements of senior management, and give preference to women with equal qualification in the selection process for public sector positions.
    - Undertake a study to identify the needs of public sector's female employees in the field of leadership development and management capacity-building in addition to reviewing whether current job requirements or descriptions hinder or discourage women from applying for the job, so that these sources of discrimination can be rectified.
    - Conduct a study on the reconciliation of family and professional life as a basis for developing women needs-sensitive training programs.

- Take measures to raise awareness, build capacity for all stakeholders, incorporate a legal culture that supports legal balance and empowerment as well as strengthen control and monitoring mechanisms to ensure the implementation of legislations.
  - Grant a "child allowance" to men and women alike, especially to women, if the responsibility for financial support of her family rests solely with her to spend on her children.
- Although the provisions that regulate night work may be well intended, the restrictions to protect female workers are discriminatory and outside the scope of international modernization, since they reduce women's economic opportunities. These provisions result in a loss of employment and income, by preventing women from working as long as men do. If we want to support the perspective indicating that women are primarily the caregivers of their families and not the breadwinners, we find that preventive measures taken based on this perspective reinforce the gender gap. Accordingly, such measures are a disincentive for employers to refrain from employing women, who are forced to work in less-paid sectors and activities.
- Notwithstanding the amendments regulating women's dangerous or hard work, it is still assumed that women are more vulnerable than men and need protection (e.g. in the industry and water sector). These laws may lead to negative consequences, effectively reducing women's employment opportunities and promoting the belief that women cannot make a decision on their own. These provisions also affect women's freedom to choose their profession. The International Labor Organization (ILO) standards dealing with women's work have shifted from the original concept of the need to provide special protection for women from difficult working conditions, included in the 1958 Convention, to the perspective that protection should be accorded to all individuals, male and female, and previous conventions, for example, on night work or mine work have been replaced by new conventions that apply to all individuals regardless of gender.
- Raise maternity leave benefits, for at least 14 weeks for pregnant mothers instead of 10 weeks. Under the Revised Maternity Protection Convention of 2000 of ILO, maternity leave must be not less than 14 weeks, with at least 6 weeks after childbirth (Article 4). Article 6 stipulates that "Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living". Where cash benefits paid through social insurance and based on previous income, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings. ILO noted that reducing the direct costs of maternity leave for the employer "helps to prevent discrimination and protect the position of women working in the labor market (ILO, 2013,41) and that women have additional time to care for elderly family members.
- Introduce an amendment to the requirement for providing childcare facilities in the workplace when the number of female employees exceeds a certain number.
- Identify the pledges that the ministry will make in respect of compliance with international conventions on women's rights and gender balance, and develop plans to enable these commitments to be realized.
- Review practices in the working environment to avoid implicit discrimination that limits gender equality of opportunity.