



Alaq Al-Muwali

Women's Rights and the Workplace

Making Strides

Women have not always been a part of the labor force. Historically, the women in the society were often limited to housekeeping roles and were denied work opportunities and access to education which led to even fewer chances to join the formal market and contribute to complex, high-paying roles.

The Industrial Revolution, which took place in the late 1700s, allowed for increased women's participation in the industrialized society. Later on, when the second World War occurred (1939-1945), women joined the workforce to fill in the roles of men who were sent to war. However, this did not last, as most women were forced to leave those jobs and return to housekeeping duties once the war was over. It was not until the 1960s that women joined the workforce alongside men. This was due to the Feminist Movement that demanded women to be seen as an integral part of the labor sector.

Women's participation in the formal economy has great economic and social benefits. It led to an increased national economic output (measured in Gross Domestic Product) for all societies where women could work. Moreover, it contributed to a decrease in labor costs due to an increased supply of the labor workforce.

The entry of women into the labor force came with its own set of challenges. The patriarchal nature of societies meant that the laws and regulations that controlled the workplace favored men and did not take women's rights and needs into consideration.

The need for inclusive labor standards is evident. They empower women by recognizing their rights and place in the labor workforce, legitimizing their concerns, and providing international and national blueprints to solidify women's positions in societies.

Global Standards

The establishment of the International Labor Organization (ILO) in 1919 was a significant step toward realizing worker's rights worldwide. Their mandate is to advance social and economic justice through setting international standards (international conventions and recommendations). In addition, they promote the Decent Work Agenda that aims to create a healthy and productive work environment for men and women in conditions of freedom, equity, security, and human dignity.

Everyone is entitled to this agenda, including those who work in the formal economy, informal economy, self-employed, and those in the care economy and private households (predominantly women). The ILO standards are implemented when countries adopt them and integrate them into their national laws.

Those conventions and recommendations aim to address some of the main issues concerning gender equity in the workplace, including non-discrimination, minimum wage, equal pay, maternity leave, protective legislation, and non-standard work.

Some of the main ILO conventions were drafted with gender equity at their core, such as the Convention of (1958) on employment and occupation, which is considered one of the most comprehensive conventions ever on gender equality.

Alongside the Convention of (1951) on equal remuneration and the Convention of (1981), that is concerned with the ability of both men and women to reconcile work and family responsibilities.

Other noteworthy standards include the Fourth World Conference on Women at the Beijing Platform for Action (1995) and the United Nations (UN) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW was adopted in 1979 and is ratified by 189 parties as of 2017, making it the second most ratified UN human rights treaty. It is an ambitious convention that is built on a vision of equality between men and women. It explicitly defines discrimination against women and establishes legal obligations for the state to end discrimination.

While these global standards are ratified and well known in many countries worldwide, major gaps still persist between those standards and the reality of workers due to the lack of proper implementation and awareness on the workers' behalf of most of their rights in the workplace.

The Iraqi Context

The Labor Rights Movement

Iraq's private sector was governed by the old labor law No. 71 of 1987, which was no longer appropriate or relevant. Over the past 30 years, major changes occurred, particularly to Iraq's economy, changing from socialism to an open market and the increasing number of expat workers in the country.

The movement towards a more progressive and inclusive labor law, which is aligned with the conventions and standards of the International Labor Organization, was led by Iraqi Labor Union's activists and advocates who campaigned for several years. It took a long time for the new law to be issued, as its draft had to be amended several times between 2005 and 2010. The new Iraqi labor law No. 37 was eventually adopted in 2015.

The Iraqi labor law No. 37 of 2015 applies to all workers in Iraq (Iraqis and foreigners) with the exception of public sector employees who are governed by the Civil Service Law and all military force workers. Therefore, it is important to distinguish between Iraqi workers and Iraqi employees as they are governed by two different laws. Furthermore, it is critical to note that Iraqi labor law No. 37 of 2015 is not yet adopted in the Kurdistan Region of Iraq.

This law ratifies all the previously pending international labor standards and conventions, a significant accomplishment that was not achieved by the previous labor law. It is also equitable to the employers and employees, allowing it to obtain similar status as other laws in developed nations.

The Gender Provisions of the New Labor Law

The new labor law puts an unprecedented emphasis on gender equity and women's rights in the private sector. This emphasis is not arbitrary; it results from active campaigning by Iraqi women labor unionists who contributed to parliamentary debates, attended conferences, and drafted amendments. They had an active role with the Ministry of Labour and Social Affairs to integrate progressive gender provisions into the law that guarantee women's safety and dignity in the workplace. They were put to increase the number of Iraqi women who would eventually join the private sector.

1. Sexual Harassment

The new labor law is one of the few in the region to define sexual harassment and determine clear penalties for it explicitly. Article 10 defines sexual harassment as "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 conduct, leading explicitly or implicitly, to a decision affecting his job." Penalties for sexual harassment in employment, the search for work, or vocational training are up to six months of imprisonment or a fine of 1 million IQD or both.



2. Discrimination

The law prohibits discrimination based on gender in job recruitment, terms of conditions of employment, vocational training, and the workplace. Article 11 determines the penalty for discrimination on the grounds of gender to be imprisonment for up to six months or a fine of 1 million IQD or both.

3. Equal Pay

The new labor law states an explicit legal guarantee for equal pay to work of equal value under Article 53. Women must be paid an equal amount as their men counterparts if they were to perform the same work, without any discrimination in wages based on sex or gender.

4. Maternity Leave

The new law has increased paid maternity leave under Article 85 to 14 weeks, fully paid by the employer. Alternatively, the new mother can take unpaid leave for up to a year. The employer must ensure that she later returns to the same position or a position of equal performance and salary. The law also stipulates that employers must provide onsite child care at the workplace.

5. Domestic Workers

Article 3 covers domestic workers by prohibiting discrimination and forced labor and ensuring equal rights and opportunities.

Possible Areas for Improvement

While this law is considered one of the most progressive ones in the region, there are still many areas for improvement to ensure women's rights in the workplace. For example, this law does not prohibit dismissal from work due to pregnancy. It also prohibits women from being recruited for arduous jobs and forbids women from working at night (except for certain administrative, commercial, transport, healthcare, communication, and recreational services). These prohibitions create fewer chances for women to participate in the workforce in comparison to men.

The new Iraqi labor law does not exist in a vacuum. There are many other outdated and patriarchal Iraqi laws that limit women's rights in other avenues of life and thereby cause harm to their work lives. These laws control women's inheritance, the size of pension, marriage rights, and position in the household, among others. A comprehensive reform movement needs to address all the unfavorable Iraqi laws and regulations that are contributing to Iraqi women's oppression and lack of agency in today's society.

The Reality on the Ground

The reality of Iraqi women workers in the private sector remains threatened, vulnerable, and subjected to outdated frameworks, despite the progressive laws. A culture of fear and shame still surrounds women who face abuse or harassment in the workplace. The practical application of these gender provisions will need to rely on many tools, processes, and mechanisms that are either still primitive or simply do not exist yet. Education about the concept of gender, women's rights, and the new labor law needs to be standardized for all Iraqi lawyers, labor inspectors, and labor judges. Information about these laws needs to be available in every workplace. Women workers must have full support to access this law and use it in a way that safeguards their rights.

More effort needs to be made to enact these provisions and increase society's acceptance and tolerance toward them. Several civil society organizations are leading the action on the ground, mainly PartnersGlobal/Iraq, to practically apply these provisions. It is important to engage other relevant governmental and non-governmental institutions in this process, such as the Ministry of Labour and Social Affairs, the Higher Judicial Council, and the Iraqi Bar Association.

In order to protect Iraqi women, we all must do our part to increase awareness and capacity regarding the new labor law. The best way to have our rights is to demand them!