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## **Impact of The Legal Context on Protecting and Guaranteeing Women's Rights at Work in the MENA region**

By Chokri Kooli<sup>1</sup> and Hend Al Muftah<sup>2</sup>

### **Abstract**

This research explored whether the MENA region countries have adopted sufficient legal provisions that encouraged females to access the labor market. A documental collection, revision, and analysis were performed to enhance our understanding of statutory provisions that were adopted by 13 countries through the MENA region to encourage and facilitate access of women to the labor market. Findings showed that the governments of the different studied countries made considerable efforts to comply with the international legal norms and protect the female workers. Among other things, the findings suggest that the MENA countries need to offer more legal protections to guarantee equity between workers, maintain the principle to be treated equally without discrimination and facilitate access of women to the labor market. Additionally, legal frameworks, work-family policies as working from home and flexible working hours, need to become more coherent, and more effort needs to be directed towards proper implementation and practice primarily in the private sector. These findings also suggest a unified treatment between male and female workers, whether they work in the public or the private sector.

*Keywords:* women workers, MENA region, Labor laws

### **Introduction**

Several researchers like Becker, 1971, and Dewey, 1889 argued that education participated in the development of global human capital. An increasing interest among the development of education and the facilitation of access was observed in the North American countries and Europe at the end of the 19th century and beginning of the 20th century. Contrary, the majority of the MENA region showed their interest in having an educated population starting from the second half of the 20th century (Kooli, 2017). The increased level of education of people optimized their chance to access the labor market, as they became considered as skilled and highly qualified. The recent decades, globally, the level of instruction of women became respectable and even higher than men. Thus, several researchers focused on studying the impact of education on women.

Nevertheless, the access of women to the labor market was not sufficiently studied (Kabir, 2016). Researchers also marginalized the question of gender differentials in employment even though in recent decades, labor markets in developing countries transformed quickly. The dilemma

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of gender differentials in work and pay are narrowing much faster than they did in industrialized countries (Tzannatos, 1999). The importance of this fact resides mostly in the role that plays women in the world in general and in developing countries in particular. Several researchers highlighted the importance of the role played by women in the socio-economic development of the world (Tsani and al. 2013; Fox, 2016; Kabir, 2016; Metcalfe, 2007; Quisumbing, 2003). Therefore, Fox (2016), Tsani and al. (2013), Kabeer, and Natali (2013) admitted that the highest participation of females in the labor force would generate a positive impact on growth in general and economic growth in particular. It will also cause a higher level of development of communities (Kabir, 2016). In such regard, the access of women to the employment market will generate positive outcomes for human capital (Becker) and capabilities within the household (Dwyer and Bruce, 1988; Kabeer, 2003). It can also lead to a decrease in the probability of household poverty (Kabir, 2016).

There have been positive developments in the MENA in terms of reform movements, social and economic freedoms and employment opportunities. Since the 1970s, many MENA countries have recorded good rates of global progress in human development. Literacy rates in the MENA region for females jumped from 61% in 2000 to 72% in 2011. There are also positive trends in women's participation in economic life, in politics and decision-making, from 3.8% in 2000 to 12.8% in 2013 (MENA-OECD governance Programme, 2014). Indeed, the share of women in the workforce increased substantially from 1970 to 1990 but has improved very little over recent years, with an increase of 0.3% between 2005 and 2015. Today, female participation in the MENA is the lowest in the world at 20.6% (OECD, 2018). However, this progress has not translated into equal participation in or access to equal opportunities in the labor market in most economies. Thus, challenges remain to achieve gender equality, so it is crucial to prioritize reforms regarding this issue (World Bank, 2013).

Taking into consideration the importance of the economic development of the MENA region, being aware of the role that can play women in achieving such objectives, some countries of the MENA region focused more on their policies to increase the rate of women's employment. For example, since well-educated women are more working in education and health, MENA's governments instituted social security programs, and protective legislation for working mothers- such as paid maternity leave, flexible working hours and workplace nurseries- which indeed was part of the social contract between the government and the citizens. Moreover, these governments implemented development strategies that supported women's advancement in the public sphere (Metcalfe, 2007) and, at the same time, tried to reduce any gender inequalities. Some other countries did not face this new reality and did not adapt their legislation consequently. Other countries even implemented legislative and structural constraints to limit the access of women to the labor market. Some researches' conducted in the MENA countries revealed that legislators started to comply with this new reality and adopted legal provisions that helped to protect the rights of the female workers. Other researchers notified that the progress registered in terms of the access of women to the labor market in MENA countries is still unacceptable and below the expectations. For these reasons, we believe that it is necessary to explore the real situation of the female workers in the labor market in MENA countries. The research objective consists of examining whether the MENA region countries adopted sufficient legal provisions that encouraged females to access the labor market. This research (a) will review the statutory provisions enacted by these countries to facilitate access of women to the labor market. We will also, (b) explore the different legal constraints that may face the female worker in the MENA region.

## **Theoretical framework**

Having appropriate legislation can ensure further participation by women in the economy. Countries across the world are working to make their legal frameworks more gender-neutral and equal, both on the international and constitutional level and in other laws. Indeed, legal institutionalism emphasizes the role of the state in the legal system. Laws also play an essential constitutive role in social and economic life by underpinning economic development and growth (North and al., 2009). During the last decades, the legal context played a crucial role in capitalist development and is vital for developing economies (Deakin and al., 2017). In such regard, laws and women both play an essential role in supporting economic activities. In such a context, Djankov and Ramalho (2009) studied the effect of employment laws in developing countries. They concluded that developing countries with rigid employment laws tend to have larger informal sectors and higher unemployment rates. From his side, Tzannatos (1999) admitted that the adoption of legislation offering equal employment opportunities would increase the rate of human capital endowments and improve the inferior labor market outcomes in terms of gender equalities. Spurred by the Arab springs, in which women played a leading role, the new constitutions of Morocco (2011), Tunisia (2014) and Egypt (2014) and the fundamentally amended constitutions of Jordan (2011) and Algeria (2016) as well as the provisional declaration of Libya (2011) all refer to the principle of equality and prohibit discrimination, albeit it in different ways. Nowadays, people are more aware and conscious that women play an essential role in society by maintaining growth and developing the economy (Fox, 2016). Sayre and Hendy (2013) argue that female labor force participation rates are significant because regional economic development depends on women's opportunities in the labor force. If the rate is low and women are denied a quality education, then economic growth will be slow because such a country cannot use its resources effectively. In her study about Women and work in Egypt, Tawakol (2017) concluded that the lack of women in labor force participation negatively impacts the economic efficiency, the level of national welfare, and the equality between genders. In the same line of ideas, Tzannatos (1999), in his research about women and the labor market, concluded that inequalities between genders affect the welfare of communities and market-based development directly. Besides, Moghadam (2008) performed research about Feminism, legal reform, and women empowerment in the MENA. She observed an increased interest regarding the issue of women's rights in the MENA. She admitted that the region's progress is mostly tribute to the extension of the role and contribution of women in the economy and society. The researches' studying the impact and role played by laws in the MENA region regarding female labor force participation are not frequent, and results are mitigated. Rutledge and al. (2011) conducted research about labor market nationalization policies and human resource development in the Arab Gulf states. They concluded that labor nationalization policies have led to marginal increases in female participation rates. Gaddis and Klasen (2014) make a valuable study of economic development and structural change concerning female labor force participation, where they claimed that female labor force participation is U-shaped because of the dynamics of fundamental change, education, and fertility while countries are still developing. Contrarily, another research conducted by Solati (2015) argued that patriarchal family laws (Sudarso and al., 2019) and labor laws pushed women to work in the informal sector in MENA. Through the review of literature, we observed an increasing global interest regarding the optimization of legal provisions to facilitate access of females to the labor market is increasing. Accordingly, we suppose that (H1) legislators in the MENA region adopted sufficient legal requirements facilitating access of women to the labor market.

We understand that such an objective is not easily reachable, principally because of the challenges that face women in the MENA region to access the labor market. Gender discrimination is a common factor that highly contributed to the exclusion of women from the work market (Figart, 2005). Historically speaking, Bergmann's (1974) researches on "crowding" admitted that because of social stereotyping and employer discrimination, the access of women to the job market was limited to certain specific positions. In addition to discrimination, Social norms constitute another obstacle and contribute to discouraging women from participating in the labor force (Tsani and al. 2013). These social norms could include factors like institutional framework, religious customs, and social constraints on women's freedom (Morrisson and Jütting 2005). From his side, Metcalfe (2007) conducted research about gender and human resource management in the Middle East. He concluded that women experience career and development constraints because of equal but different gender roles. He also noticed that, in the majority of MENA countries, human resources management organization policies did not tackle the issues related to gender or equality. Doing the same, Moghadam, (2008) found that discrimination against women, across MENA countries, is directly related to and urban infrastructure, cultural attitudes, government policies, and legal frameworks. Additionally, women have difficulty accessing senior management positions, both in the public and the private sector. In her study about Qatari women in top management, Al Muftah (2010) stressed that although Qatari females have made remarkable educational attainment, they're still very poorly represented in senior management levels, which is not due to any institutional, legal discrimination but to cultural barriers that affected their career development.

## **Research Framework**

### *Methodology*

This research is based on a quantitative approach that focuses mainly on documental collection, review, and evaluation of legal web-based documents. The references adopted for the theoretical framework and fieldwork of this study are laws and legal documents. Thus, the research will follow a conceptual model of the behavior based on pragmatics for abduction (Gabbay and Woods, 2005). Several researchers, such as Stigler, 1961, and Simon, 2000, used cognitive economics in their business research. The behavioral economics approach assumes that the critical test of a theory is the exactness of its predictions (Ur Rehman, 2016). Egidi and Rizzello (2003) explain that cognitive economics helps to understand human mental activities and is relevant to explain economic actions. Ur Rehman (2016) also revealed that behavioral economics enhances economics' explanatory power by providing it with a stronger and more rational psychological foundation.

The abductive approach will also rely on a fieldwork documental collection, revision, and analysis. This reminds us that the result of the review of laws and regulations regarding labor provisions related to women in the MENA region is summative as the emphasis is on evaluating whether the countries studied succeeded in securing performing legislation about the subject of study. Therefore, the method of research followed in this research will consist of analyzing the different legislations of the majority of countries situated in the MENA region. Taking into account this study's purpose, we will examine the impact of the legal context on protecting and guaranteeing women's rights at work. Accordingly, our problem consists of exploring whether or whether not the studied countries adopted legal laws and regulations protecting women's rights at

work in the MENA region, improved or not their working conditions, and facilitated or not their access to the labor market.

#### *Data Collection and Data Analysis*

Thirteen countries (Algeria, Bahrain, Egypt, Jordan, Kuwait, Libya, Morocco, Qatar, Saudi Arabia, Sultanate of Oman, Tunisia, United Arab Emirates, and Yemen) from the MENA region that already adopted legal provisions regulating the questions of women working conditions have been chosen as this study's target population. Nineteen statutory provisions (At least one by country), including laws, regulations, policies, and decisions (**Table 1**), were integrated into the research. The research excluded countries that did not adopt legal provisions in the field of study and those that have lawful requirements written in a language other than English, Arabic, or French. Thus, we can say that out of the twenty central countries of the MENA region, thirteen were included in the research. Web-Based research was performed to collect legal documents that were adopted by the studied countries concerning the employment of women. Their content was analyzed using Word and Excel worksheets. In particular, this study attempts to determine the causal relationship between the different legal provisions and the working conditions of women in the MENA region.

**Table 1: Summary of the legal provisions adopted by country**

<b>Country</b>	<b>Number of Laws/policies supporting women work</b>	<b>Title of the article/law/policy</b>	<b>Year the law/policy</b>	<b>Reference of the law/policy/article</b>
<b>Algeria</b>	1	LAW N ° 90-11 OF 21 APRIL 1990 RELATING TO LABOR RELATIONS	1990	LAW N ° 90-11
<b>Bahrain</b>	1	Law No. (36) for the year 2012 To issue a labor law in the private sector	2012	LAW N ° 36-2012
<b>Egypt</b>	1	Egypt labor law	2003	LAW N ° 12-2003
<b>Jordan</b>	2	Labor Law of 1996  Regulation of Flexible Employment No. 22 of 2017	1996  2017	LAW N ° 8-1996  Regulation No. 22 of 2017
<b>Kuwait</b>	1	Labor law No. 6 of 2010 On the work in the private sector	2010	Law No. 6 of 2010
<b>Libya</b>	1	Law No. (12) for the year 1378 and 2010 Gregorian to issue the Labor Relations Act	2010	Law No. 12 of 2010
<b>Morocco</b>	1	Law No. 65 of 1999 related to Labor code	1999	Law No. 65 of 1999

<b>Qatar</b>	2	Law No. (14) of 2004 promulgating the Labor Law 14/2004  Qatar's Civil Human Resources Law No.15 of 2016	2004  2016	Law No. (14) of 2004  Law No.15 of 2016
<b>Saudi Arabia</b>	1	Labor and Workmen Law	1969	Royal Decree No. M/21 dated 6 Ramadan 1389 (15 November 1969)
<b>Sultanate of Oman</b>	2	Labor Law promulgated by Royal Decree No. 35/2003  Civil service Law promulgated by Royal Decree No. 120/2004	2003  2004	Royal Decree No. 35/2003  Royal Decree No. 120/2004
<b>Tunisia</b>	2	Law No. 27 of 1966 dated 30 April 1966 concerning the issue of the Labor Code  Law n° 2006-58 dated 28 July 2006, establishing a special half-time job scheme with benefitting from the two third salary for the mothers	1966	Law No. 27 of 1966  Law n° 2006-58
<b>United Arab Emirates</b>	3	Federal decree law # 11 for the year 2008 regarding human resources in federal government  Federal Law No. 8 of 1980 also known as the Labour Law  Sharjah Executive Council decision	2008  1980  2014	Federal decree law # 11 for the year 2008    Federal Law No. 8 of 1980
<b>Yemen</b>	1	Labor Law	1995	Republican Decree Law No. (5) for the year 1995

**Source:** Personal work complicated from diverse sources

## *Results*

This research examines the impact of the legal context on protecting and guaranteeing women's rights at work. The particular legal provisions adopted are going to be exposed, analyzed. They might include actions as increased participation in the labor force, maternity leave, working hours, retirement, and other legal frameworks.

### **Gulf Cooperation Countries (GCC's)**

The advancement and development of women's status in the GCCs are mainly due to the results of the political leadership support and the state-led-reforms, which in turn resulted in remarkable educational attainment and increased participation in the labor force (Kooli and Al Meftah, 2020). Indeed, a dramatic change has occurred just in the past two decades. As in many other parts of the world, the growing market-oriented and privatized economies in the GCC region are expected to strengthen women's labor participation and involvement, through the government sector is still the dominating sector in employing women. Significant reforms recently carried out include granting women the right to study and work in male-dominated areas as engineering and army, which in turn might be considered as a positive indicator anticipating that more women are expected to enter the labor market. Kingdom of Saudi Arabia (KSA), for example, has set an ambitious target of 30% female participation in the labor force by 2030, is already bearing fruit. Labor-force involvement of women was 14.2% in 1990 and reached 22.3% in 2018, according to data from the World Bank, (2019). KSA's labor and workers' law adopted a sequential number of articles that are in favor of women workers (Varshney, 2019). It is noted that all GCCs had altered their constitutions and labor laws towards more family and women-friendly. For example, the labor laws gave the women a maternity leave of two months that can be extended to three or four months as in Qatar, Oman, KSA, and Kuwait. Article 34 of Bahrain labor law gave the female employees the right to have a maximum of six months of unpaid leave to take care of her child not exceeding six years of age, while Qatar's and Oman's law allows women similar right for two fully paid years in case having disabled children and KSA's laws allow women the right to one additional paid month of vacation that is extendable to up to 18 weeks without payment. The UAE has been pushing for gender equality and has made significant progress over the past 20 years. However, despite the progress observed in terms of guaranteeing the rights of the female worker, still, improvements are needed. For example, females working in the private sector would have the right for 45 days' leave for maternity with full payment only if they worked with the same employer for more than a year. Otherwise, the female worker will be entitled only for half-paid leave. In a certain way, this provision does not recognize the engagement of the legislator to guarantee equal treatment between employees without discrimination. For example, since the female reaches the end of the maternity leave, she is obliged to resume work and cannot extend her maternity leave even without pay. Such a dilemma can generate stressfully and conflicted situation to the female worker. In some cases, she may be forced to choose between taking care of her kids, losing her job, or neglecting her kids.

In terms of family-support policies, KSA's labor law article 144 makes it compulsory for every employer employing more than 50 persons to have a suitable nursing area under the supervision of a qualified nurse. Such provision gives the female worker the necessary peace of mind, guarantees the security of kids, and optimizes the productivity of the worker. Besides, article 87 of the same law protected the right of the female worker to get the gratuity in case she resigns for marriage or childbirth. Again, Article 166 of the same law indicated that the employer should



bear the expenses related to the medical examination, costs of treatment, and delivery. Moreover, the Saudi legislator took into consideration the physiology of women and mentioned in the article 171 of the Saudi labor and workers law, that wherever a woman is employed, she must get a seat at her provision to guarantee her comfort.

Similarly, Kuwait's labor law (article 22) optimized the security conditions of the female workers. Therefore, in case the employer decided to employ females during night shifts, he must provide them with all security requirements as well as transportation means from and to the workplace. Similar, article 23 prohibited the employment of any woman in jobs that violate morals or exploit their femininity in violation of public morals. In addition to the provisions guaranteeing the security of women, the legislator gave them the possibility of better assuming their social responsibilities.

In the state of Qatar, females are enjoying a more family-friendly legal framework in the government and public sectors. This includes, as mentioned above, for maternity leave, which can be up to 3 months in case the mother deliver twins and the 2-years feed breastfeeding flexible working hours. Moreover, a mother with a special-needs child is entitled to two years of full-paid child-care leave. Such rules show the importance of the family for the Qatari legislator. The generalization of such good practices on the female employees of the private sector will surely generate better results and outcomes in terms of workers, families, and kids' well-being. A last proper provision adopted by the GCCs legislator is related to the Islamic rule of Idda. Typically, the religious nature of this provision makes it applicable only for the Muslim worker for four months.

### **Other Arab Countries**

The Tunisian experience can serve as an appreciated model to follow concerning the law n° 2006-58 of 2006. Through this law, a particular scheme of work is set up whereby mothers can work half time with the benefit of two-thirds of the salary. Could benefit from this measure, the mother having a child under sixteen, the age requirement does not apply to children with disabilities. The duration of the benefit of the particular part-time working system is fixed at a maximum of three years. This duration may be renewed twice during the administrative career of the female employee and under the same conditions.

The Algerian legislator gave the female worker favors' concerning the age of retirement. In typical situations, men workers can claim the retirement pension at least at the age of sixty. However, a woman worker may retire at her request, from the age of fifty-five. Besides, to optimize the security and safety conditions of female workers, the 26<sup>th</sup> article of the Algerian labor law set the maximum load that women and minor workers can handle at the maximum level of 25 kg.

Egypt represents a different case where female participation in the workforce has remained flat for the past two decades. As some other countries, to get full payment of the 90 days of maternity leave, the female worker shall have spent ten months in the service of the employer (article 91 of Egypt labor law). The late condition is entirely arbitrary because it does not consider the best interest of the child. To care for her child and no more than twice throughout the service period, the female working in an establishment, including more than fifty workers, shall have the right to obtain leave without pay for a period not exceeding two years. In addition, to offer the maximum protection to the female workers, the Egyptian legislator makes it possible to decrease the shift work of the pregnant women that reached her sixth month by one hour daily. The same law has forbidden employers from assigning overtime to the pregnant worker until six months after

the date of delivery. Despite all advantageous legal provisions that are in favor of the female workers, the Egyptian labor law contains an article that seems to be compromising and can be a source of abuse or facilitating abuse. Therefore, article 99 gives employers the possibility to train female teenagers once they reach twelve years of age. An article like that is subject to abuse and interpretation and could facilitate the hidden employment of kids under the pretext of training. Besides, when we see the population and the large surface of Egypt, we systematically doubt about the capacity of the government to implement performing mechanisms guaranteeing the strict application of the provisions of article 99.

On the other hand, Jordanian labor law ( article 67) highlighted the necessity for the female worker to take care of her kids. In such regard, this article allowed her to have the right to leave without pay for a maximum period of one year. This rule applies only for establishment engaging ten Employees or more. Article 72 of the same law made it mandatory for employers who employ a minimum of twenty female married Employees to create a nursing area. This space, supervised by qualified educators, receives employees' children that are aged less than four years. Finally, it is necessary to highlight an exclusive New Employment Regime adopted by the Jordanian government, and that took the name of "Working within Flexible Arrangements." Regulation No. 22 of 2017 related to flexible Employment offers specific categories of employees (see below) the right and opportunity to choose, with their employers' consent, a flexible working arrangement tailored to their personal and familial circumstances, needs, and requirements. Essentially, this regulation optimizes the level of satisfaction of employees, guarantees their engagement, and fosters a very tangible and concrete work-life balance.

The Libyan Labor law could also be a source of inspiration for the other countries of the MENA region about the provisions of article 43. The originality of such an article resides in its positive discrimination as it gives the female worker the opportunity of accomplishing her working services at the age of 60. Contrarily, male workers cannot do the same before the age of 65. Also, article 25 of the Libyan labor law offered two additional paid weeks of maternity vacation to the female that deliver more than one child at the same time.

Like the majority of the MENA region countries, the Moroccan legislator allowed the working mothers one year unpaid leave to look after their children. Despite that, the right for this kind of holiday is not exclusive as it is subject to the approval of the employer. Such conditions can lead to the exercise of more pressure, discrimination and lead to harassment against the female worker.

Despite the hard economic conditions of the country and some cultural barriers, the Yemenite legislator allocated a considerable number of advantages to the female worker. In such regard, Article 44 of Yemen labor law indicated that between the sixth month of pregnancy and the first six months following the return to work after maternity leave, the female worker should not be attributed any overtime period. Such provision constitutes a supplementary guarantee of the physical health of the mother and the fetus. In addition, article 45 of the same law gave the female worker the possibility of having 20 extra days of maternity leave in case she gives birth to twins. Finally, article 114 of the Yemenite labor law took care of the sanitary situation of the country. In such regard, it called all employers employing female workers to have separated and easily accessible lavatories and washrooms on the working premises. Therefore, every employer that employs more than 200 workers or 50 female workers shall establish a nursery for children below the age of four at the place of work.

## **Legal provisions facilitating access of women to the labor market and protecting their rights**

As can be observed in tables (2) and (3), the review of the legislation of 13 countries (**Table 1**) can be summarized in six primary areas including discrimination provisions, equality in salaries, night work provisions, Idda<sup>3</sup> rights, protection from harmful or hard works and finally maternity leave entitlements.

## **Protections against discriminations**

Several international organizations highlighted the necessity of protecting human rights. The Universal Declaration of Human Rights considered that discrimination constitutes a violation of rights. The Declaration of Philadelphia also affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. In our area of expertise, the General Conference of the International Labor Organization adopted the twenty-fifth day of June of the year one thousand nine hundred and fifty-eight a Convention named the Discrimination (Employment and Occupation) Convention, 1958. The article 2 of the mentioned convention stipulated that “*each Member for which the convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.*”<sup>4</sup> From their side, Fox (1998), Fox, and Hasci (1999) affirmed that international human rights standards really ought to be a component of any given society's legal culture. Data analysis showed us that the majority (9/13) of the studied countries mentioned in their relative legislations that they protect women against discrimination at work. Only three countries (Jordan, Saudi Arabia and, Tunisia) did not take any consideration in that order. We notified the absence of explicit provisions in the labor laws of these countries that prohibit discrimination in employment and occupation. The United Arab Emirates took a clear position for the protection of rights, but only in labor laws related to public institutions.

## **Equalities in salaries**

The General Conference of the International Labor Organization adopted the twenty-ninth day of June of the year one thousand nine hundred and fifty-one a convention named the Equal Remuneration Convention, 1951. The article 2 of the mentioned convention stipulated that “*Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.*”<sup>5</sup> Out of 13 countries studied, eight adopted legal provisions guaranteeing that women receive equal payment, in case they execute a work of fair value with men. So, concerning the obligation to pay fair remuneration for work of equal value, the Labor Codes of Bahrain, Jordan, Oman, Saudi Arabia, and Tunisia do not relate to the principle of equality of remuneration between men and women with equal employment under the provisions of Convention No. 100. The legislation of the mentioned countries avoided regulating the principle of non-discrimination in wages due to differences in gender.

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<sup>3</sup> Idda is a period during which a Muslim woman should be in mourning after the death of her husband.

<sup>4</sup> C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

<sup>5</sup> C100 - Equal Remuneration Convention, 1951 (No. 100)

### **Women's night work**

There is no doubt that the physiology and nature of women are entirely different from men. In addition, in the MENA region, the role of women in taking care of the whole family is highly valued and appreciated. Again, the maintaining of a high level of safety and security of women is an essential concern for the governments of the region. Therefore, taking into consideration the nature of women, the critical role that she plays in the society, and to guarantee its security, the majority of legislators estimated that night work is not compatible with women. Our research revealed that six countries from the MENA region adopted laws that forbid women's work at certain blocks of time during the night. Nevertheless, at the same time, these legal provisions are not strict because they made some exceptions of work permits based on certain specific requirements in certain categories of job that shows a critical nature or safe value. Therefore, generally, the prohibition of women's work at night is an exemption if a force majeure ceases the firm. Alternatively, a woman is working in administrative and technical positions or, she is working in healthcare. Certain countries like Bahrain, Jordan, and Morocco have taken the opposite direction. They allow night work and make the same exceptions in which it becomes forbidden. Other countries like Libya and Qatar did not receive any position regarding the women's night work. Contrarily to the other countries, the republic of Yemen had strictly forbidden the work of women at night.

### **Women's Idda**

The majority of MENA countries are considered as Muslim; their legislations take into consideration certain Islamic principles. One of these provisions is observed in the labor law context and is called Idda. Under it, at the demise of the husband, the female employee shall be entitled to special leave for Idda. Such privilege is offered only for Muslim females living in Muslim countries. Countries like Algeria, Egypt, Jordan, Morocco, and Tunisia kept silence, and their respective labor laws and regulations did not offer any favor to the female worker to observe Idda in case of the decease of her husband. Contrarily, the rest of the other studied countries had taken legal provision to help female workers to follow their Idda. Kuwait, Libya, and Oman were very generous and offered the private sector Muslim female workers an Idda vacation for a successive period of 4 months and ten days. Qatar, Saudi Arabia, and UAE offered the same favor but only for Muslim females working in the public sector. Less generous, the kingdom of Bahrain permits the Muslim female worker to get a vacation of 30 days paid to observe her Idda. The rest of the period can be covered from the annual leave, and in case of insufficient credit, the female worker can get it unpaid. The Republic of Yemen did the same regarding Idda and offer female workers 30 days of vacation with pay and 90 days without payment. Kuwait and Saudi Arabia are more generous and provide respectively 21 and 15 days of leave to the non-Muslim female worker in case of the decease of the husband. This situation shows that the favor of having Idda vacation is not necessarily related to religious concerns but mainly relays on human provisions. Legislators in MENA countries are compassionate regarding the feelings of the female worker principally in case of the decease of the husband. It appears that compared to the North African countries, the legislators from the Middle East care more sensitive to the question of Idda because they awkward allowed female workers to get a paid vacation in that case (except Jordan).

### **Legal provisions protecting maternity statute of the female workers**

Once we focus the analysis on the legal context (table 3), we readily conclude that the 13 studied countries adopted statutory provisions permitting working women to get paid maternity leave after the delivery. In only two cases (Oman and Egypt), the right for maternity leave is not absolute, and the female workers can get it respectively only for three and two deliveries. This fact can be explained by the policies of birth control adopted by these countries. The data analysis shows us that the length of maternity leave is different from one country to another one. Comparing to the 13 other countries of the MENA region, Tunisia gives female workers only 30 days of vacation.

Consequently, it stands at the end of the ranking by offering the shortest period of maternity leave. Countries like Algeria and Libya are more generous as they provide female workers 14 weeks of maternity leave with full payment. We were also able to notify that other countries do not treat female workers equally between the private and the public sector. For example, in Jordan, the female worker has the right to getting ten weeks of maternity leave if she works in the private sector and will get 15 weeks if she works in the public sector. In addition, in Qatar, the female workers of the private and public sectors will get respectively 50 days and two months of maternity leave. Besides, the UAE female workers are not treated equally between the public and private sectors when it comes to getting maternity leave. So, these workers of the public sector are guaranteed a generous three months of maternity leave, whether those working in the private sector can get only 45 days.

The disparity between countries in terms of the number of days of maternity leave is difficult to explain. The wealthiest countries like Qatar and UAE do not offer the highest number of days of vacation. In addition, the poorest countries in the region like the Yemen Republic offer equal or even the highest number of vacation days related to maternity. It seems that it is not a question of financial resources rather than being a question of general consciousness regarding the needs of the female workers. Future researches can focus on exploring the reasons explaining the disparities observed between countries.

**Table 2: Legal provisions adopted by country**

<b>Country</b>	<b>Anti-discrimination provisions</b>	<b>Night work</b>	<b>Idda</b>	<b>Harmful or hard works</b>	<b>Equal Payment Specified</b>
<b>Algeria</b>	Yes	Not allowed	Not specified	Not allowed	Yes
<b>Bahrain</b>	Yes	Allowed with conditions	30 days paid and the rest is annual vacation or unpaid for Muslim female	Allowed with conditions	Not specified
<b>Egypt, Arab Rep.</b>	Yes	Forbidden between 7 p.m. and 7 a.m., exceptions apply	Not specified	Not allowed	Yes
<b>Jordan</b>	Not specified	Allowed with conditions	Not specified	Allowed with conditions	Not specified
<b>Kuwait</b>	Yes	Forbidden between ten p.m. and seven a.m., exceptions apply	4 months and 10 days in private sector for Female Muslim and 21 days for non-Muslim	Not allowed	Yes
<b>Libya</b>	Yes	Not specified	4 months and 10 days in private sector for Female Muslim	Not allowed	Yes
<b>Morocco</b>	Yes	Allowed with conditions	Not specified	Not allowed	Yes
<b>Oman</b>	Yes	Forbidden between nine p.m. and six a.m., exceptions apply	One hundred and thirty days for a working Muslim	Not allowed	Not specified
<b>Qatar</b>	Yes	Not specified	4 months and 10 days in public sector for Female Muslim	Not allowed	Yes
<b>Saudi Arabia</b>	Not specified	Forbidden for an interval of at least eleven hours	4 months and 10 days in public sector for	Not allowed	Not specified

		between sunset and sunrise	Female Muslim and 15 days for non-Muslim		
<b>Tunisia</b>	Not specified	Forbidden between ten p.m. and six a.m., exceptions apply	Not specified	Not allowed	Not specified
<b>UAE</b>	Yes for public sector	Forbidden between ten p.m. and seven a.m., exceptions apply	4 months and 10 days in public sector for Female Muslim	Not allowed	Yes
<b>Yemen, Rep.</b>	Yes	Not allowed	30 days with pay and 90 days without	Not allowed	Yes

**Source:** Personal work complicated from diverse sources

When exploring the rate of payment of the maternity vacation, we noticed that all the studied countries offer the full amount for that purpose except Egypt that pays the basic salary and Morocco that allow the payment of 67% of the salary. If we focus the analysis on determining the entity that is going to take in charge of the amount of Maternity leave, we notify that principally the “poorest governments” of Algeria, Morocco, and Tunisia do that in the North African side of MENA region. In Paradox, the wealthiest countries situated in the Middle East side do not assume the payment of the maternity leave as employers is in charge of that. This finding could be explained by the fact that businesses in the Middle Eastside are supposed to generate more profit compared to those that are situated on the North African side. We also need to mention that the North African enterprises pay corporate income taxes; their Middle East counterpart does not.

The analysis of the legislation of the 13 countries that form a part of the MENA region (table 3) also showed that all the mentioned countries offer sufficient legal guarantees protecting the female workers from being fired during the pregnancy period or after the delivery period. In such situations, the rule of return to work is 100% protected. For example, in Jordan, the employer cannot terminate a female employee that reached six months of pregnancy or during her maternity leave. Saudi Arabia does not allow that inside a period of 6 months before and after the delivery. In addition, the Sultanate of Oman employers is permitted to fire a female employee only if she does not resume work after six months from the date of delivery. Such a period of amnesty is reduced to 60 days in Qatar legislation. The UAE legislators estimated that the accumulation of 100 continuing or cumulative days of absence from work could lead to the termination of the contract of the female worker. In all cases observed, we can say that legislators offer sufficient guarantees to protect the rights of the female worker to maintain her job during the pregnancy and after the delivery.

Regarding nursing rights, we can first mention that among the 13 countries, only Oman did not take any provisions regarding newborn nursing. For the rest of the studied countries, the legal requirements adopted are different in terms of mode, time, and duration. For example, in the Republic of Yemen, the daily working time after they return from maternity vacation is limited to 5 hours daily for over six months. The other countries attributed cumulative or separate blocks of time that allow a female employee to get a nursing leave to feed her infant. For example, Qatar legislator allowed the female working in the private sector to get 1 hour of paid nursing leave for over one year.

Similarly, the public sector female workers are entitled to 2 hours of paid daily leaves for a length of 2 years. Similarly, Libya and UAE allow during the 18 months following the delivery, a female worker in private sector nursing her child, to be entitled to a one-hour daily break for this purpose. Simultaneously, a female public sector employee in UAE is entitled after giving birth, and for the duration of four months, nursing leave for two hours daily to feed her infant.

Despite the disparities observed between the different countries about the legal provisions adopted by the studied MENA region countries concerning the protection of the maternity statute of the female workers, we can surly and proudly affirm that these countries adopted a performing and very advantageous provisions. For example, these countries, by choosing to pay the female worker when she took a nursing leave, are giving beneficial rights to the female worker comparing to France and Canada. The legislation of the latest mentioned countries does not allow such kind of vacation (Canada) or specify the necessity of making it paid (France). Consequently, the findings show us that legislators in the MENA region adopted sufficient legal provisions protecting the maternity statute of the workers. Therefore, we can say that legislators in the MENA region made outstanding efforts in terms of safeguarding the maternity statute of the female workers by guaranteeing their rights during pregnancy and after



the delivery. In addition, the legislators of the studied countries showed significant concerns regarding protecting and serving the best interests of the newborn of the female workers.

### **Protection from harmful or hard work**

The review of the different legislations of MENA countries revealed to us that the majority (11 out of 13) of them forbid women from working in hazardous, hard, arduous, or harmful to their health, moral, or social standing. In Bahrain and Jordan, women are allowed to work in such environments under precise conditions. By prohibiting women from working in unsafe environments or in requirements that don't meet their physical and physiological conditions or that may cause a risk to their health, it is clear that legislators in MENA countries care about protecting the physical and moral health of female workers. Rather than being discriminated, it seems that the legislators would like to protect women from being exposed to harm or being exploited and forced to work in decent conditions because of their social or economic needs. Findings related the legal provisions facilitating access of women in the MENA region; to the labor, the market shows that the majority of the studied countries respect international orientations, requirements, and conventions. They made considerable efforts to treat female workers equally and without discrimination. Legislators also facilitated conditions of access of women to the labor market by offering them advantages (like Idda Vacation) that are not even observed in occidental countries. Women of the MENA region also got the privilege to work in safe and optimal conditions and are protected from being exploited. In such matters, these countries adopted several legislations forbidding the employment of women in hard, harmful, or hazardous conditions. The security and health condition of women is also optimized by banning them from being hired to execute night work.

Consequently, the findings show that Legislators in the MENA region adopted sufficient legal provisions facilitating access of women to the labor market and protecting their rights to be treated equally and without discrimination. Therefore, we can say that legislators in the MENA region made outstanding efforts in terms of facilitating conditions of access of women to the labor market and guaranteeing their rights and security. The observed progress differs from one country to another. Despite that, we believe that female workers deserve more encouragement, and policymakers need to protect more the rights of the female workers in the region. Findings support our second Hypothesis.

### **Discussion**

This research aimed at examining the impact of the legal context on protecting and guaranteeing women's rights at work in the MENA region. Accordingly, our problem consists of exploring whether or whether not the studied countries adopted legal laws and regulations protecting women's rights at work in the MENA region, improved or not their working conditions, and facilitated or not their access to the labor market. We drew on economic development and labor law literature to develop our propositions that served as guidelines and theoretical framework for our empirical study.

Concerning the first and second hypotheses, we can conclude that the governments of the different countries of the MENA made considerable efforts to comply with the international legal norms and protect the female workers.

**Table 3: Laws regulating Maternity leave by country**

<b>Country</b>	<b>paid or unpaid</b>	<b>% of wages</b>	<b>Who pays?</b>	<b>length in days/ weeks</b>	<b>Law protecting Return to work?</b>	<b>Possible Maternity leaves?</b>	<b>Dismissal for pregnancy or delivery</b>	<b>Nursing</b>
<b>Algeria</b>	Yes	100%	Government	14 weeks	Yes	Not specified	Not allowed	2 hours a day for the 6 first months and 1 hour a day for the 6 second months (public sector)
<b>Bahrain</b>	Yes	100%	Employer	60 days	Yes	Not specified	Not allowed	2*1 hour paid breaks in private (6 Months)
<b>Egypt, Arab Rep.</b>	Yes	Basic Salary	Employer	90 days	Yes	2 times during service	Not allowed	2*30 minutes paid breaks in private (24 Months)
<b>Jordan</b>	Yes	100%	Employer	10 weeks for private / 15 for public	Yes	Not specified	Not allowed after sixth month of pregnancy or during the maternity leave.	1 hour paid break in private for 1 year
<b>Kuwait</b>	Yes	100%	Employer	70 days	Yes	Not specified	Not allowed	2 hours a day
<b>Libya</b>	Yes	100%	Employer	14 weeks	Yes	Not specified	Not allowed	1 hour paid break in private for 18 months
<b>Morocco</b>	Yes	67%	Government	14 weeks	Yes	Not specified	Not allowed	2*30 minutes paid breaks in private (12 Months)

<b>Oman</b>	Yes	100%	Employer	50 days	Yes	3 for private and 5 for public	Not allowed before 6 months of non-resume to work	Not specified
<b>Qatar</b>	Yes	100%	Employer	50 days for private and 2 months for public	Yes	Not specified	Not allowed before 60 days of non-resume to work	1 hour a day / 1 year (private) and 2 hours a day for 2 years (public)
<b>Saudi Arabia</b>	Yes	100%	Employer	10 Weeks	Yes	Not specified	Not allowed 6 months before or after delivery	No more than one hour a day
<b>Tunisia</b>	Yes	67%	Government	30 days with possibility of extension	Yes	Not specified	Not allowed	2*30 minutes paid breaks in private (1 year)
<b>UAE</b>	Yes	100%	Employer	3 months (public) / 45 days (private)	Yes	Not specified	Not allowed for a maximum of 100 days cumulative	2*30 minutes paid breaks in private (18 Months) 2 Hours for 4 months in public sector
<b>Yemen, Rep.</b>	Yes	100%	Employer	60 days	No	Not specified	Not specified	Working time reduced to 5 hours after delivery and for 6 months.

**Source:** Personal work complicated from diverse sources

The findings show that the majority of the studied countries accept and maintain an acceptable legal climate facilitating women access to the labor market, helping their emancipation at work, and treating them equally without any gender discrimination. This observation is not absolute because some disparities were observed between countries regarding some women's rights at work. Some countries like Tunisia, Jordan, and Saudi Arabia need to accept and express the principles of equality between workers explicitly and must adopt laws prohibiting gender-based discrimination. Given the importance of the role of women in economic development, the MENA countries need to consolidate their efforts in terms of the adoption of flexible laws facilitating and encouraging the access of women to the labor market is an essential first finding. Additional findings provide more insight into the legal provisions adopted by the different studied countries in terms of women labor laws.

The findings show us that legislators in the MENA region adopted legal provisions facilitating access of women to the labor market and protecting their rights to be treated equally and without discrimination. These unique statutory provisions take into consideration the social, cultural, and religious context of the female worker. Therefore, we can say that legislators in the MENA region adopted innovative and original laws and legal practices that facilitated conditions of access of women to the labor market and took into consideration the specificities of their working environment.

The first theme of the research studied the legal provisions facilitating access of women to the labor market and protecting their rights to be treated equally and without discrimination. The findings show that Jordan, Saudi Arabia, and Tunisia, did not take any legal consideration to prohibit discrimination in employment explicitly. Simultaneously, eight countries adopted statutory provisions guaranteeing that women receive equal payment in case they execute a work of fair value with men. It is not acceptable that in the 21st century, some countries refuse to abide by universal international orientations, especially in terms of essential workers' rights. These governments need urgently to review their legal orientations to comply with the universal provisions and human rights (Fox, 1998; Fox and Hasci, 1999).

The majority of legislators in MENA countries estimated that night work is not compatible with women. Meanwhile, they took provisions forbidding or limiting it to some categories of workers and under several conditions. Even those who accepted women's night work, they took provisions or obliged employers to make arrangements that optimize the security conditions of the female workers. Therefore, taking into consideration the nature of women, the critical role that she plays in the society, the necessities of families, and to guarantee its security, the majority of legislators estimated that night work is not compatible with women. When we compare with occidental countries, we noticed that their laws did not take any legal provisions in such regard. Still, in reality, the majority of the workers (male and female) refuse the night shift (Galatsch and al., 2013). Therefore, we can say that rather than being discriminated or limiting rights of women worker (ILO, 1995), it seems that the legislators of MENA countries would like to protect women from social, security and medical dangers associated with night shifts (Folkard and Lombardi, 2006; Patel, 2010; Boudreau, 2014). They protect them from being exposed to harm or being exploited and forced to work in decent conditions because of their social or economic needs.

Additional findings are linked to some Good legal provisions adopted by certain countries and need to be highlighted to serve as an example. Several countries offered the female workers the opportunity to get a non-salaried special leave to care about the newborn or to provide support to a family member that is in need. The rights for advancement, advantages, and return to work are wholly granted. Such provisions are not generalized among MENA countries and sometimes are observed only in the public sector. In all cases, the adoption of such rules witness a high degree of respect for the female workers and serves the best interests of the employer, the women worker, and maintain the cohesion of families.

Researchers were also capable of observing legal provisions calling employers to adopt structures that serve as nursing areas and that are supervised by qualified employees. Also, the Algerian and Libyan legislators offered the female workers the opportunity to retire at an advantage age and completely before men. Qatar and Morocco took provisions adopting the principles of flexible time work and offering the possibility of emancipation for the female workers. Besides, since 2007, Tunisia passed a law allowing women to work half of the regular time and get 67% of the monthly salary. Even though these provisions are not generalized among all the studied countries, it is essential to say that in the majority of cases, we were able to see a great openness from governments. The adopted legal provisions testify the vital position that occupies the female workers in these societies. They also show that these governments are determined to serve the best interests of the female workers and their families by encouraging and facilitating their access to the labor market.

Another finding shows that legislators in MENA countries are compassionate regarding the feelings of the female worker necessarily in case of the decease of the husband. It appears that compared to the North African countries, the Middle East legislators are more sensitive to the question of Idda because the majority of the time, they allowed female workers to get a paid vacation in such a situation. This kind of forced vacation is very generous in the Middle East part of the MENA countries. Occidental countries do not offer an equivalent advantage. The Idda vacation is directly linked to Islamic principles, it is not mandatory, and it is observed only in the Eastern side of the region. Thus, we conclude that the religious aspect advantaged the women worker and offered her additional advantages. Some countries do not limit the Idda vacation to the Muslim female workers but also took care of the feelings of the other non-Muslim workers and gave them a generous vacation.

In addition, the findings show that it is essential to adopt legal provisions protecting the working mothers, especially in countries where family links are active. The analysis of the statutory requirements related to labor laws reveals that the MENA countries offered respectful protections to the working mothers. The right for paid maternity leave after the delivery and nursing rights generally conjugate these provisions. Several disparities were observed between the studied countries. The legal regulations adopted are different in terms of mode, time, and duration. The research shows us that the length of maternity leave is different from one country to another one. The disparity between countries in terms of the number of days of maternity leave is difficult to explain. The wealthiest countries like Qatar and UAE do not offer the highest number of days of vacation. Besides, the poorest countries in the region like the Yemen Republic offer equal or even the highest number of vacation days related to maternity. It seems that it is not a question of financial resources rather than being a question of general consciousness regarding the needs of the female workers.

Nevertheless, in the worst of cases, the studied countries respected the minimum acceptable standards in the field. It is important to mention also that, concerning nursing rights, the majority of the MENA countries offered certain advantages that are beyond what is being provided in occidental countries. These offered advantages reinforce the protection of the female worker, guarantee her rights for maternity, give protections for families, and serve the best interests of kids. Consequences are not limited to the female worker or her family members but also could affect the productivity of enterprises positively, maintain the prosperity of employers, guarantee social cohesion, and economic development.

Once we focus the analysis on determining the entity that is going to take in charge of the payment of Maternity leave, we notify that principally the “poorest governments” of Algeria, Morocco, and Tunisia do that in the North African side of MENA region. In Paradox, the wealthiest countries situated in the Middle East side do not assume the payment of the maternity leave, as employers are in charge of that. This finding could be explained by the fact that businesses

in the Middle Eastside are supposed to generate more profit compared to those that are situated on the North African side.

## **Conclusion**

The efforts deployed by the MENA countries to encourage female workers are considerable and highly appreciated. These countries adopted legal provisions that encouraged and facilitated women's access to the labor market. The impact of these statutory provisions is not visible among the totality of the studied countries. Disparities still exist among the studied countries and between public and private sector laws. Studying women's employment rights in a regional context is a risky step, and findings are always compromising. The constraints that face women's employment are different and highly dependent on the legal, economic, social, and religious context of the country or the region.

This research focuses on the impact of the legal context of MENA countries on women's work. As far as we know, there are only a few researches that concretely made a summative study about laws and regulations facilitating access of women to the labor market. The majority of analyses observed are descriptive rather than being analytical and based on real facts. We tried to measure the effectiveness of the legal provisions adopted by the studied countries. We were able to observe significant progress in the legal context and rules passed. Several disparities between the countries' studies are still existing and easily detectable.

In summary, we suggest that MENA region countries continue the efforts of the adoption of robust legal provisions that forbid discrimination against women that treat them equally and that encourage and facilitate their access to the labor market. We suggest that MENA region countries make the Benchmarking efforts and gain profit from the best legal provisions and regulations observed in a similar social, cultural, and religious context. By doing so, we facilitate access of women to the labor market and optimize chances of economic development. We highly recommend governments to encourage generalization of the legal provisions and spread them among private and public sectors. In addition, we want to make a strong plea for taking requirements that help governments to be sure that the adopted legal provisions are implemented. The adoption of control and the following mechanisms is more than necessary. Finally, it is highly recommended that countries where women are underrepresented take measures encouraging positive discrimination and create new job openings that be reserved for the underrepresented groups.

In other words, governments need to offer more legal protections to guarantee equity between workers, maintain the principle to be treated equally without discrimination, and facilitate access of women to the labor market. These findings also suggest a unified treatment between male and female workers, whether they work in the public or the private sector, whether they are citizens or immigrants. In achieving this, proper implementation requires key measures: a) allocating sufficient human and financial resources to implementing government bodies; b) adequate mechanism to monitor implementation; c) coordinating with other related national/international organizations, and d) mainstreaming gender throughout policies and legislations including the potential of gender quotas in the public sector for achieving greater gender equality and women's economic empowerment. The findings reveal new insights into the reality of the women working in the MENA region under the legal context. Results and ideas can also be relevant to the legal women's work enhancement in different parts of the world.

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