

Law proposal on flexible working arrangements in Lebanon

An opportunity to strengthen the economy, enhance women's participation, and protect their rights

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Flexible working is a pillar of the economy and gender equality

If legal frameworks are weak, they create serious repercussions that deepen the gender gap, entrench inequalities, threaten large segments of society with further marginalization, and expose them to the risks of poverty, unemployment, violence, and a lack of economic and political participation. Today, Lebanon faces those challenges, which are being compounded by a dangerous rise in poverty rates,¹ and an alarming increase in inflation, migration and unemployment rates.

Lebanon has one of the largest gender gaps worldwide, owing to low female labour force participation. This is due to many reasons, notably the burden of care work traditionally entrusted to women, which often forces working women in crisis situations to reduce their professional responsibilities and sometimes completely withdraw from the labour market. This pattern has been witnessed in the various crises that have struck Lebanon, including the economic crisis and the COVID-19 pandemic. During the pandemic, women with care responsibilities who could work flexibly or remotely retained their jobs, whereas those who could not were forced to take unpaid leave or quit their jobs.

¹ The United Nations Economic and Social Commission for Western Asia (ESCWA) estimates that multidimensional poverty has increased in Lebanon from 25 per cent in 2019 to 82 per cent in 2021.

- Lebanon is ranked 119 of 146 countries on the global gender gap index (World Economic Forum, Global Gender Gap Report, 2022).
- Female participation in the labour force in Lebanon is 28 per cent, around a third of the male participation rate, as estimated by the International Labour Organization.

A high percentage of women are forced to work in the informal sector, which threatens their economic security given that such employment lacks stability and the rights and conditions associated with decent work due to the absence of written employment contracts and the prevalence of temporary or seasonal working patterns. Moreover, they receive lower pay than men for work of equal value, lack health and social coverage, and are not entitled to annual, sick or paid maternity leave.

In light of these facts, the Chair of the Lebanese Women and Children Parliamentary Committee proposed a law to include flexible working arrangements in the Lebanese

Code of Labour, so as to enhance women's economic participation. The law proposal provides legal protections for modern forms of work that are in line with the needs of families, and allows for a more equitable distribution of care roles. It is based on a study on flexible working arrangements in Lebanon, conducted by the Economic and Social Commission for Western Asia (ESCWA) within the framework of its partnership with the Women and Children Parliamentary Committee. The study revealed the need to amend the social legal system, which is underpinned by the Lebanese Code of Labour and the Social Security Law, so as to include flexible working arrangements given their direct positive impact on the economy and on efforts to achieve gender equality.

Keeping pace with laws on flexible working arrangements: a national need



Existing systems of work are undergoing a radical transformation, owing to technological developments and rapid market changes in globalized economies. The impact of this shift is reflected in working patterns, prompting the emergence of so-called “flexible working arrangements”, which today have attracted increasing interest from the three production parties, namely Governments, workers and employers. This new reality requires amending regulations to keep pace with development paths without affecting the pillars of social protection, by undertaking the following:

- Amending labour laws to enable enterprises to achieve their highest competitiveness as a result of potential reductions in production costs.
- Ensuring government adoption of public policies to stimulate the economy, tackle unemployment, and reduce pollution and fuel consumption.
- Protecting workers' jobs and securing special social benefits for people whose social status does not conform to the requirements of traditional working patterns, especially women who shoulder the majority of care work.

Traditional working patterns are defined as work performed at the employer's site, during a specified eight-hour period (maximum), according to a work system determined by the employer for all male and female workers, in exchange for regular pay. The employer has the right to discipline employees that violate this system, in accordance with existing laws.

In contrast, modern flexible working arrangements fall outside the scope of full-time work conducted during a set period of time. These new arrangements are the result of technological developments or have been adopted by the competitive business world to meet the needs of both male and female workers outside the workplace. The various forms of flexible work can be classified according to length of working hours, the time of day when work is undertaken, and work location. The most prominent forms of flexible work include the following:

- Telecommuting.
- Part-time work.
- Flexibility in moving from full-time work to part-time work, in line with workers' changing circumstances.
- Flexible working hours.
- Flexibility in adjusting working hours according to shifts.
- Temporary work.
- Job sharing.
- A compressed work week.

These new working patterns have become widespread, threatening the ability of traditional social protection systems to cover such workers, which has raised concerns about the prevalence of informal work. A global trend has emerged to encourage the regulation of flexible work, by giving it legal status and providing public policy incentives for its adoption. The International Labour Organization has promulgated the Workers with Family Responsibilities Convention, 1981 (No. 156); the Part-Time Work Convention, 1994 (No. 175); and the Home Work Convention, 1996 (No. 177), but no clear and comprehensive convention specifically related to flexible work.

In Lebanon, the 1946 Code of Labour is the linchpin of the legal social protection system, alongside the Social Security Law that plays a key role in social protection through the provision of social insurance to beneficiaries.

The Lebanese Code of Labour subjects employment contracts to the provisions of ordinary law, which is based on freedom of contract and the legitimacy of the contracting parties. However, the Code of Labour does not define the term "employment contract", which has prompted Lebanese jurisprudence to rely heavily on decree No. 3572 of 21 October 1980, which defines the powers of labour arbitration councils. The definition of the elements of employment contracts was therefore deferred to the Code of Obligations and Contracts, and to additional related provisions therein. It was found that all those provisions focused on traditional working patterns, which defined an "employment contract" as any agreement that outlined specific working hours, traditional direct supervision, or other systems established by an employer in accordance with the law.



The ESCWA study showed that the Code of Labour lacked provisions on non-traditional working patterns (except for fixed-term work), and on ways for the judiciary to develop jurisprudence to expand protections provided by law to workers within such patterns. The absence of a legislative framework that explicitly covers modern working patterns restricts jurisprudence to the general frameworks of the Lebanese Code of Labour, which in its current form does not adequately cover and provide broader protections for more flexible forms of work. Furthermore, in the absence of a supporting legal framework, the adoption of any form of flexible work runs the risk of being considered non-contractual, which threatens to exclude flexible workers from the social protection system.

The amendments set out in the law proposal take into account the recommendations of the ESCWA study, which include the following:

- Adopting a more modern and detailed definition of a written or verbal employment contract that legally binds the worker to the employer.
- Acknowledging the most prominent forms of flexible work in Lebanon:
 - » Telecommuting.
 - » Part-time work.
 - » Transitioning from a full-time job to a part-time job.
 - » Seasonal work.

These amendments aim to expand the scope of protection for flexible workers, and create grounds for jurisprudence to enshrine the principle of flexibility when defining existing employment relationships.



A step towards promoting decent work

The law proposal constitutes a major opportunity. It should be approved following in-depth negotiations between the three production parties, alongside consultations with the National Social Security Fund, so as to enact appropriate provisions that allow remote or part-time workers to benefit from social security, and to overcome all financial obstacles that may impede this initiative by proposing effective financing means to cover the expenses incurred from adopting the law proposal.