

Abstract

Woman's rights, in general, and woman's rights under the social legislations, in particular, are considered amongst the most important issues nowadays. This article has reviewed woman's rights under the Jordanian Labour Law and Social Security Law. It has reached the conclusion that under the Labour Law and the Social Security Law, a woman is protected in many matters, and this protection has positively influenced her role in the development of the society.

"إِضَاءَاتٌ عَلَى حَقُوقِ الْمَرْأَةِ فِي قَانُونِ الْعَمَلِ وَالضَّمَانِ الْاجْتِمَاعِيِّ الْأُرْدُنِيِّ"

ملخص:

تعدُّ حقوق المرأة بشكلٍ عامٍ وحقوق المرأة في ظلَّ التشريعات الاجتماعية على وجه التحديد من بين أهمِّ القضايا في الوقت الحاضر. استعرضَ هذا البحث حقوق المرأة في قانوني العمل والضمان الاجتماعيَّ الأردنيين، وقد خلَّصَ إلى أنَّ المرأة محميَّة في عدَّة أمور في ظلَّ قانوني العمل والضمان الاجتماعي وأنَّ هذه الحماية قد انعكست إيجاباً على دورها في تنمية المجتمع.

Introduction

Woman's liberation movement was not the product of the 20th century human rights organizations. It was begun in the seventh century and it was revealed by Allah, the Almighty, to a man by the Prophet Muhammad (PBUH) (Al-Fozan, 1420H, 6). The Holy Quran and the Noble Traditions of the Prophet are the sources from which every Muslim woman derives her rights and duties (Heyam, 1989, 15; Ministry of Information, 2005b, 23).

Fourteen centuries ago, Islam made men and women equally accountable to Allah in glorifying and worshipping (Al-Shalabi, 1983, 61). Islam established a woman's equality in her humanity with a man (Ministry of Information, 2005b, 23). In the Holy Quran, Allah, the Almighty, says: "O mankind! Be careful of your duty to your Lord who created you from a single soul and from it its mate and from them both have spread abroad a multitude of men and women. Be careful of your duty towards Allah in whom you claim (your mutual rights) of one another, and towards the wombs (that bore you). Lo! Allah has been a watcher over you" (Holy Quran, 4:1).

Unfortunately, in some Arab and Muslim societies a woman began to lose her primacy and autonomy as a human being, to become an object for physical pleasure and commercial promotion (Al-Fozan, 1420H, 3 & 10; Smith, 1980, 43). Her purpose in life is changed. It became more to realize her femininity than to fulfil her humanity (Muhammad, 1990, 17-18; Al-Turabi, 2003, 31).

This article sheds some light on woman's rights under the Jordanian Labour Law and Social Security Law. Firstly, it discusses woman's rights in Islam. Secondly, it discusses the position of woman in Jordan. Thirdly, it considers woman's rights under the Jordanian legislations, and finally it considers woman's rights under the Jordanian Labour Law of 1996 and the Jordanian Social Security Law of 2001.

1. Woman's rights in Islam

Islamic lawⁱ gives a person the fundamental guidance that includes the legal, economic, political, moral, spiritual and social aspects of life (Al-Shalabi, 1983, 98; Dwyer, 1990; Bhatia, 2005, 62).

Family, society and ultimately the whole of mankind is treated by Islam on an ethical basis (Ayubi, 1994, 5; Ababteen H, 2006, 9). Differentiation in sex is neither a credit nor a drawback for the sexes. Therefore, when we talk about status of women in Islam it should not lead anyone to think that Islam has no specific guidelines, limitations, responsibilities and obligations for men (Ministry of Information, 2005b, 24). What makes one valuable and respectable in the eyes of Allah, the Almighty, is neither one's prosperity, position, intelligence, physical strength nor beauty, but only one's Allah-consciousness and fear (Al-Badawi, 1971, 32; Al-Shalabi, 1983, 53; Al-Kailani, 2007, 7).

In Islam, a woman is an independent entity, and thus a fully responsible human being (Ababteen, 2006, 9). Islam addresses her directly and does not approach her through the agency of Muslim males (Al-Shalabi, 1983, 60). She would assume full capacity and liability once she has attained maturity and has received the message of Islam (Al-Fozan, 1420H, 8; Al-Turabi, 2003, 45).

Female and male relatives may assume different stands over the religious option. For instance, a woman like Fatima, the

daughter of Al-Khattab, embraced Islam although her brother Umar was still a non-Muslimⁱⁱ.

If embracing Islam by a woman is an entirely personal matter in the Islamic tradition and cannot be done through proxy, so are all obligations and duties which Islam enjoins on her. No one else can do them on her behalf. She performs her acts of worship purely on the basis of her own intention; and as such these are treated in Islam as her personal achievements (Starr, 1992, 90; Ministry of Information, 2005b, 24). For Allah has proclaimed, "I do not allow the achievement of a worker, from amongst you, whether he be male or female, to go to waste. You all belong to one another" (Holy Quran, 3:195). In addition, Allah, the Almighty, has also said "Whoever works righteousness, man and woman, and has faith, verily, to him will We give a new life, a life that is good and pure; and We will bestow on such their reward according to the best of their actions" (Holy Quran, 16:97).

In Islam, women are counterparts of men and there is no separate order of regulations for them (Al-Qaddoumi R, 2000b, 9). There are, however, few limited secondary regulations

where a distinction is drawn between the two sexes; but these are intended purely to enable both of them to give a genuine expression of their faith in accordance with their respective human nature. However, Islamic law is essentially the same, and its general rules are common for both the sexes; it is addressed to both without any distinction (Ministry of Information, 2005b, 24; Al-Kailani, 2007, 7).

The underlying presumption in the Shari'a is that sex is immaterial, except where the text makes the distinction, or where proof can be adduced to that effect. Thus, personal religious services for a woman in Islam, for instance, are the same as those for a man. She has to perform her prayer, fasting, pilgrimage, etc (Muhammad, 1990, 17-18; Al-Turabi, 2003, 51).

Women are entitled to full freedom of expression of their proper views. The Prophet's wife, Sayidah Aeshah (may Allah be pleased with her), is famous for going all-out to advance her juristic opinions (Abdel Ghafour, 2003, 17). Muslim ladies used to venture their views in the presence of the Prophet (PBUH) as well his successors, the Caliphs. Ibn Al-Jauzi narrated that

Umar Ibn Al-Khattab (may Allah be pleased with him) forbade the people from paying excessive dowers and addressed them saying: "Don't fix the dowers for women over forty ounces. If ever that is exceeded I shall deposit the excess amount in the public treasury". As he descended from the pulpit, a lady stood up from among the women audience, and said: "It is not within your right". Umar asked: "Why should this not be of my right?" she replied: "Because Allah has proclaimed: 'even if you had given one of them (wives) a whole treasure for dower take not the least bit of it back; would you take it by false claim and a manifest sin?'" (Holy Quran, 4:20). When he heard this, Umar said: "The woman is right and Umar (the man) is wrong. It seems that all people have deeper insight and wisdom than Umar" (Al-Turabi, 2003, 56).

According to Islamic jurisprudence, a woman is competent to own property and dispose of it in any manner. The Shari'a generally provides for an equitable and fair role for women in the economic life of a Muslim society (Al-Shalabi, 1983, 63). Just as much as they share in the management of family affairs, they can contribute to the support of the family, although they are not legally bound to provide maintenance.

A woman can share outdoor work with the man to earn a common living. Asma bint Abu Bakr is said to have narrated that when Al-Zubair married her, he had no land property, nor anything else, except a camel and a horse. She said: "I would give fodder to his horse, draw the water, patch his water skin, and knead the flour. I used to bring, on my head, fruit kernels from the land which the Prophet (PBUH) had given to Al-Zubair. That land was at a distance of three *farsakhs* (about ten miles) from our home" (The Islamic Cultural Centre, 2002, 4).

Women can engage in business and commerce. A clear example is Qailah bint Bani Atmar, one of the merchant ladies, who said: "I am a woman who buys and sells" (Al-Asqalani, 1408H, 224). Another example is Shaff'a bint Abdullah Ibn Abd Shams who was entrusted by Umar Ibn Al-Khattab to supervise the administrative market affairs (Al-Mawardi, 1962, 61; Abbodi, 1998, 280).

As for education; it was, in a measure, compulsory. There was not a village in the Islamic State, where the blessings of education could not be enjoyed by the children of the most

humble people both males and females. For example, in Andalusia in 970 AC there were twenty seven free schools open in Cordoba for the education of the poor. In the 10th century, Cordoba University was the only university in Europe; its total number of students reached 11 thousands (males & females) (Al-Jobour & Al-Owaidi, 2001, 97&117; Ofelia De Felipe, 2010, 17). The curriculum of Cordoba University contained astronomy, physics, chemistry, mathematics, medicine, philosophy, philology, botany, history, geography, jurisprudence, etc. Women were encouraged to devote themselves to serious study, and the lady-doctor was known among the people of Cordoba (Ofelia De Felipe, 2010, 23).

As regards inheritance, a woman's share is one-half the man's share (Badran, 1985a, 39; Al-Fozan, 1420H, 8). This variation in inheritance rights is only consistent with the variations in financial responsibilities of a man and a woman according to the Islamic Law. A man in Islam is fully responsible for the maintenance of his wife, his children and his parents (Ministry of Information, 2005b, 25). This responsibility is neither waived nor reduced because of his wife's wealth, or because of her access to any personal income gained from work, rent, profit, or

any other legal means (Al-Shalabi, 1983, 62). A woman, on the other hand, is far more secure financially and is far less burdened with any claims on her possessions. Her possessions before marriage do not transfer to her husband and she has no obligation to spend on her family out of such properties or out of her income after marriage (Al-Shalabi, 1983, 62-63; Ministry of Information, 2005b, 25).

However, weak commitment to religion tends to cultivate unjust and hostile treatment of women. Unlike man, a woman is created and brought up gentle and delicate. Performance of her natural functions keeps her away from the tough experience of everyday public life. A man, uncultured by religion, tends to oppress her as is common in many human societies (Al-Fozan, 1420H, 9). Some men purposefully keep women weak, and the jealousy, which they entertain in respect of women, induces them to multiply the means for restraining and monopolizing them. In addition, male jealousy may result in banning women from active participation in the broad spectrum of human life on the pretext that she must devote herself exclusively to the care of her children and the service of her husband (Al-Ra'i, 2008a, 18).

1.1 Women's participation in public life in Islam

Islamic law has established the spiritual equality of women and men. Allah, the Almighty, clearly tells us that men and women are members of one and the same human race, and therefore equal to one another. We read in the Holy Quran that God-consciousness (*taqwa*) is the only distinguishing factor between human beings: "O mankind! We created you from a single (pair) of male and female, and made you into nations and tribes, that you may know each other (not that you despise each other)..." (Holy Quran, 49:13). This holy verse has established that men and women are equal in their humanity and that no gender is superior.

In the Islamic history, there were no restrictions in women's full participation in the economic, political and social spheres of their society (Al-Shalabi, 1983, 60-61; Ababteen, 2006, 6). For example, Khadija, the Prophet's first wife, was one of the most important merchants of the time, and the Prophet himself was her employee. Aeshah, the Prophet's other wife, was one of his most important advisers and consultants (Abdel Ghafour, 2003, 4 & 17; Al-Na'seh , 2005, 196).

In the early Islamic history, women not only participated in various aspects of their society's public sphere, but also they had the right to be elected to political offices. For example, Umar Ibn Al-Khattab, the second Caliph, appointed a woman (Shifa bint Abdullah Ibn Abd Shams) to oversee the affairs of the marketplace and he used to seek her counsel. Women also participated in wars and fought in battles (Al-Mawardi, 1962, 61; Abbodi, 1998, 280).

A Muslim woman has the privilege to earn money, the right to own property, the right to enter into legal contracts, and the right to manage all of her assets in any way she pleases. She can run her own business and no one has any claim on her earnings including her husband. The Holy Quran states: "And in no wise covet those things in which Allah hath bestowed His gifts more freely on some of you than on others; to men is allotted what they earn, and to women, what they earn; but ask Allah of His bounty, for Allah hath full knowledge of all things" (Holy Quran, 4:32).

Concerning respecting the woman's opinion, Allah, the Almighty, in a narration about one of Prophet Jacob's daughters, says "one of them said: Oh my (dear) father! Engage him on wages: truly the best of men for thee to employ is the (man) who is strong and trusty" (Holy Quran, 28:26). Indeed, Prophet Jacob has done by his daughter's advice.

1.2 Aspects of inequality in Islam between men and women

There are some aspects of inequality between men and women, the most important of these aspects are the followings:

(i)- Islam differentiates between men and women in the responsibility in financial sustenance or burdens of living

In Islam, a woman has no financial obligation and the economical responsibility lies on the shoulder of the man. Before a woman is married, it is the duty of the father or brother to look after the lodging, boarding, clothing and other financial requirements of the woman. After she is married the husband becomes financially responsible for fulfilling the needs of his wife. This means that the full maintenance and support of a married woman is the entire responsibility of her husband, even though she might be richer than him. Allah, the Almighty, has said: "Men are protectors and maintainers of women because

Allah has made one of them to excel the other, and because they spend to support them from their means" (Holy Quran, 4:34). (For details, see Ghawji, 1975, 122; Al-Sebaei, 1994, 34; Farahat, Jili & Others, 2004, 203; Husni, 2005, 45).

(ii)- Inequality between men and women in quorum of testimony

In case of witnesses for financial documents, the Quran asks for two men or one man and two women: "And get two witnesses out of your own men, and if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her" (Holy Quran, 2:282). This means that the legal value of the testimony of women is half that of a man (see Ibn Rushd, 1988, 311; Al-Faqi, 2000, 4; Al-Nashar, 2006, 30).

(iii)- Islam distinguishes between men and women in guardianship

In Islam, guardianship is for man. Allah, the Almighty, has said: "Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they spend of their property (for the support of

women)" (Holy Quran, 4:34). This indicates that there are two reasons behind the man guardianship; namely: because Allah, the Almighty, had made one of them to excel the other, and because a man supports a woman from his own means (see Toaimat, 2006, 313).

(iv)- Islam distinguishes between men and women in patrimony

In Islam, a woman is entitled to the right of inheritance. In most of the cases, a woman inherits half of what her male counterpart inherits. Allah, the Almighty, has said: "Allah (thus) directs you as regards your children's (inheritance) to the male, a portion equal to that of two females" (Holy Quran, 4:11). However, this principle is not universally applicable. For example, where the deceased has left no ascendant or descendent but has left the uterine brother and sister, each of the two inherits an equal share, i.e. one sixth (see Holy Quran, 4:12). (For more details, see Al-Shalabi, 1985, 130; Qutob, 1992, 116; Al-Sebaei, 1994, 24; Farahat, Jili & Others, 2004, 203).

(v)- Men have the privilege in giving divorce

Islam permits divorce as a solution if nothing else works to save the marriage (Al-Shalabi, 1983, 63; Badran, 1985b, 346).

Divorce is the sole right of man, but there are rules regarding custody of children and these rules almost work in favour of the mother of young children. The Holy Quran states that a husband has to divorce his wife twice for the marriage to be properly annulled: "A divorce is only permissible twice: after that, the parties should either hold together on equitable terms, or separate with kindness" (Holy Quran, 4:12). Fourteen centuries ago, however, Islam has recognized the wife's right to put an end to her matrimonial relationship by seeking khulu'. The first example was Jamilah bint Salul who got khulu' through the Prophet (PBUH) just because she did not like her husband. The Prophet (PBUH) asked her to return the garden which she took as dowry from her husband (Badran, 1985b, 399-400).

(vi)- Polygamy system in Islam is only allowed to men

Polygamy is a form of marriage in which a man can have more than one wife at the same time (Hammuda, 1998, 103). The only verse in the Quran that speaks about polygamy was revealed after the Battle of Uhud in which many Muslims were martyred leaving behind widows and orphans in need of support. It states "If you fear that you shall not be able to deal

justly with the orphans, marry women of your choice, two, or three, or four; but if you fear that you shall not be able to deal justly with them, then (marry) only one" (Holy Quran, 4:3). This verse shows that: i- polygamy is neither mandatory, nor encouraged, but it is merely permitted; ii- the permission to practice polygamy is not associated with mere satisfaction of passion, but it is associated with compassion towards widows and orphans; iii- dealing justly with one's wives is an obligation. If one is not sure of being able to deal justly with them, the Quran says: "then (marry) only one" (Holy Quran, 4:3). However, if a woman thinks that polygamy is against her interest, then she can add a condition to the marriage contract controlling her husband from marrying another woman. In this case, the husband has to commit to that condition or he would have no right to keep her as a wife if she decides to get divorcedⁱⁱⁱ.

(vii)- Authorization in matrimony from women of the Holy Book is only given to men

Islam allows a Muslim man to marry a devout Christian or Jewish women, as they are among the people of the book and they worship the same God. A Muslim woman, however, cannot

marry a non-Muslim man. Allah, the Almighty, has said: "... (lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time, when ye give them their due dowers" (Holy Quran, 5:5). This means that a Muslim man is not allowed to marry any non-Muslim woman. The only people from whom a Muslim man is allowed to marry are the People of the Book, i.e. those who have faith in the previous revelations informed by Allah (Badran, 1985b, 117).

2. The position of woman in Jordan

Emancipation of a Muslim woman and the right of a Muslim woman to social and legal equality has been the subject of much discussion among modernists and law reformers (Zagday, 1948, 215; Ministry of Information, 2005a, 7). It has also given rise to feminist movements in many Islamic countries, such as Jordan (Al-Qaddoumi, 2000a, 8).

During the last four decades, Jordan achieved remarkable social and economic progress which was reflected, in a positive way, in the role of women in the society and their effective ability to contribute to this progress (Ghazwi, 1985, 92; Jordanian

National Commission for Women, 1993, 3; Al-Qaddoumi, 2000b, 8). Jordan has consistently been cited by Amnesty International as "the country with the best human rights record in the region" (Jordan Media Group, 1995, 47).

The beginnings of Jordanian women's interests in public life and the clear tendency towards political work became more manifest in the 1950s. This accompanied with the growing of national struggle against imperialism, the demand to terminate the Jordanian-British Treaty and the Arabization of the Jordanian Army command. Under these circumstances, a Jordan's Women's Union was established in 1954, under the name "Arab Women's Union" (Al-Mufti, 2006, 17).

Among the union's demands were giving women the right to vote in elections, amending the Personal Status Law and Labour Law, and opening wide opportunities for women's education and work. The union, however, was suspended after the imposition of martial law in 1967 and the dissolution of political parties. In 1974, however, the government permitted the rise of a Women's Union, which was established entirely through the initiative of women, most of them belonging to the leftists

parties. The activities of this union had patently political character which coloured its progress with tension and clashes with the government. Consequently, it was dissolved in 1981 and then restored again after the democratic process in 1990 (Al-Mufti, 2006, 24).

In 1992, the National Commission for Women was established. This Commission has laid down the national strategy for women in Jordan at a national conference on women's affairs held in 1993 (Jordanian National Commission for Women, 1993, 3).

In 1995, the Jordanian Rally for Women's Affairs Committee was founded under the presidency of Princess Basma, with branches therefore in all governorates of the Kingdom. The aim of the Rally is to mobilize, organize and direct the potential of Jordanian women toward the realization of their aims in terms of improving the conditions of women and activating their role through application of the National Strategy for Women in Jordan. In 1996, the Princess Basma Centre for Women's Affairs was established to provide information and facilities for governmental agencies and non-governmental organizations

concerned with the women's affairs and with providing training opportunities for women in developmental fields (see Princess Basma Center for Women's Affairs, 1997, 23 - 25).

2.1 Women's participation in public life in Jordan

Jordan enjoys good education indicators compared to neighbouring countries and has progressed in this respect during the last two decades. Female illiteracy rates have been dropped considerably. It decreased from 53.2% in 1972 to 7% in 2011 (Department of General Statistics, 2011, 20). This has positively affected women's participation in public life in Jordan.

As a matter of fact, Jordanian women have played a significant role in shaping and sustaining the future of the country, which has recently made tangible progress in empowering women and boosting their participation in public life (Ghazwi, 1985, 92; Al-Qaddoumi, 2000b, 8). A number of laws have been amended for this purpose. These laws include the Personal Status Law, the Civil Retirement Law, the Social Security Law, the Labour Law, the Civil Service Regulation, etc (see Al-Dustour, 2011, 23).

Female participation in public life and in holding state positions is noticeably increased: there was a participation in the executive authority since 1979, in the legislative authority since 1989^{iv}, in the judiciary since 1996, and in municipal and village councils since 1982 (Atiyyat, 2004, 29)^v.

Female participation in the labour force has doubled rising from 7.7% in 1979 to 18.4% in 2011 (Al-Qaddoumi, 2000b, 8; Department of General Statistics, 2011, 2). In addition, the percentage of the unpaid women who are engaged in a family work has dropped down to 0.4% in 2011 (Department of General Statistics, 2011, 12).

At present, there are many governmental and non-governmental associations and organizations, which are established for the purpose of enhancing women's participation in public life in Jordan and protecting women's rights, particularly labour rights. These organizations include:

(i)- Jordanian Women Union, which was established in 1954 for the purpose of improving the status of the Jordanian women and promoting their rights (Jordanian National Commission for

Women, 2004, 27). Its services include many programs, such as illiteracy eradication, legal services, employment, etc (Jordanian National Commission for Women, 1995, 27).

(ii)- The General Federation of Jordanian Women, which was founded in 1981 for the purpose of gathering and providing information on women's unemployment and on all women's organizations and their activities. The federation has a number of committees to run activities which include child care, cultural affairs, religious affairs, and social affairs (Al-Mufti, 2006, 37).

(iii)- Noor Al-Hussein Foundation, which was established in 1985 with the aim of identifying and meeting development needs, introducing innovative and dynamic integrated community development modes and setting national standards of excellence in five areas of emphasis. These are: family and community development, women, children, culture and heritage, and education.

(iv)- Jordanian National Forum for Women, which was established in 1995 for the purpose of spreading awareness among Jordanian women on their legal and social status and

increase their participation in decision-making processes, and in economic activities (Jordanian National Commission for Women, 2004, 26).

(v)- Princess Basma Women's Resources Centre, which was established in March 1996 as a support mechanism for women's organizations and policymakers. It has four functional areas: social policy and population, women and development, advocacy and decision making, and research and development (Al-Ra'i, 2008b, 6).

(vi)- The International Institute for Supporting Women/ Jordan, which was established in 1998 with the aim of spreading information among women and making them aware of their legal rights which are guaranteed by the international conventions as well as by national legislations (Aman Institute, 2005, 3).

(vii)- Jordan Forum for Business and Professional Woman, which is established for the purpose of empowering women's participation in socio-economic and cultural development

through legal outreach programs, legal advocacy, legal counseling and legal aid (Al-Ra'i, 2008b, 6).

(viii)- The Jordanian National Commission for Women, which was established in 1992 as a policy-making body for the advancement of women in Jordan. It has a legal committee that studies legislation and its impacts on women (Jordanian National Commission for Women, 1993, 3; Jordanian National Commission for Women, 2005, 1).

3. Women's rights under the Jordanian legislations

In Jordan, women's rights stem from the provisions of the Jordanian Constitution and the National Charter. They are also founded on Islamic law, social values and human rights (Al-Qaddoumi, 2000b, 9; Ministry of Information, 2005b, 157).

Over the past two decades women's rate of participation in the work force in Jordan has been improved. Legislation has helped women to participate in the economic and social development of Jordan (Al-Mufti, 2006, 36). During the last two decades, several laws that protect the rights of the working women are enacted including the recognition of their right to maternal

leave. The enactment and amendment of these laws is originated from the belief of the Jordanian government and legislator in the women's rights which are basically emphasized by the Shari'a as well as by the government's commitment to implement the conventions and treaties which Jordan has ratified (see Al-Dawoodi, 2000, 44-45; Al-Dustour, 2011, 23).

According to the Jordanian Constitution, all Jordanians are equal before the law, have the right to assume public office and the right to work. Section 6(1) of the Constitution of 1952 states "Jordanians shall be equal before the law. There shall be no discrimination between them as regards their rights and duties on grounds of race, language or religion".

The Constitution also grants women their full rights and provides opportunities for them in various fields in exactly the same way as it grants men. Subsequent laws and regulations have enshrined the spirit and philosophy of the Constitution and have stressed women's rights and their equality in all fields with men and have stipulated the privileges conferred on women by virtue of motherhood.

The National Charter of 1990 affirms the principle of equality and equal opportunities for all citizens regardless of sex, age, poverty or other criteria^{vi}. It states "Jordanian men and women are equal under the law. There shall be no distinction between them in rights and obligations regardless of difference in race, language or religion. They shall exercise their constitutional rights and uphold the higher interest of the state and the national ethic in such a manner as to ensure that the material and spiritual resources of Jordanian society are freed and directed towards achieving the national objective of unity, progress and building a better future" (chapter one, point no.8).

The National Charter, along with the Constitution, provides a compass for the national debate on fundamental issues. Chapter one of the Charter states "Social justice for all Jordanians requires a range of social insurance schemes, an updating of labour laws and a narrowing of income disparities in such a manner as to ensure balance and social harmony and to provide security and stability for the society as a whole" (point no.15).

Chapter five of the Charter, which is entitled "the Social Aspect" states: "Women are men's partners and equals in

contributing to the growth and development of the Jordanian society. This requires an affirmation of women's constitutional and legal right to equality, guidance, training and employment as a means of enabling them to play their proper role in the growth and development of society" (point no.6).

The Civil Code No.43 of 1976, which became a permanent law in 1996^{vii}, embodies the rules that generally governed the labour relationship^{viii}. For example, section 822 of the Code imposes an obligation on the employer to provide all means of security and safety in the establishment, to pay attention to the good condition of the machinery and equipment of the work, and to comply with the requirements of good conduct and discretion in his relationship with the employee. In addition, section 824 of the Code imposes an obligation on the employer to provide the employee with clothing, or food, if custom so requires, whether that is stipulated in the contract or not.

At present, Jordan is in a process of transformation where old needs to be integrated with new and where new challenges arise for society. In order to meet these challenges, Jordan is currently drawing upon its human resources. In fact, Jordanian

men and women are well educated, well qualified to enter the labour market, believing in economic advancement through cooperation and liberalization (Al-Mufti, 2006, 30). Jordanians are also young, with 79% of the population below the age of 29 years (Jordanian National Commission for Women, 1995, 10).

According to the recent Population Census conducted by the Department of General Statistics, the human population of Jordan was 6,113,000 people. Women constitute 56.5% of the total number of the population (Department of General Statistics, 2011, 6&1).

Working women, however, still face challenges in their careers and in their workplaces. They have difficulty to cope with the social and cultural stress put upon them. They often lack support from the management and have difficulty in ensuring active participation of other women (Jordanian National Commission for Women, 1995, 4).

Indeed, time has come for women in Jordan to take advantage of tools and ideas that can help them to get recognition for their skills and talents. Also, time has come for Jordanian

organizations and companies to consciously promote women professionals that make their organizations work and prosper (Jordanian National Commission for Women, 1995, 14).

Accordingly, providing supporting and consultation services for working women, creating organized and legal channels for claiming women's human rights and offering relevant advice and using the provisions of the labour law to create the appropriate mechanism, is essential.

It should be mentioned, here, that ZENID (the Queen Zein Al-Sharaf Institute for Development), which is established in 1994, is a local training provider in the filed of social development. It supports range of voluntary groups, women's organizations and youth activities. Its close cooperation with the Jordanian Hashemite Fund for Human Development makes it an important player in all fields of development. It is specialized in social research and training that aims at enhancing the role of the Jordanian women in serving the society (Jordanian National Commission for Women, 1995, 21).

It should be added that the issue of the advancement of women and the development of their status to the level they deserve by considering them as effective elements and full partners in the development and social progress has become one of the most important issues at present. This issue with its various dimensions and ramifications has been on the agendas of successive international conferences, such as the International Conference on Education for All (1990), the International Conference on the Environment and Development (1992), the World Conference on Human Rights (1993), the World Conference on Population and Development (1994), the World Summit Conference on Social Development (1995), the Beijing Conference on Women (1995), and the World Conference Against Racism and Racial Discrimination (2001) (see UNIFEM, 2003, 10; Jordanian National Commission for Women, 2005, 2).

The UN Convention of the Elimination of All Forms of Discrimination against Women of 1979, which became effective as of 3 September 1981, has emphasized that it is unacceptable any social, cultural or legal practices by which women are discriminated against; excluded from political participation and

public life, segregated in their daily life, raped in armed conflicts, denied divorce or inheritance rights, forced to marry, and sod into force labour (UNIFEM, 2003, 12)^{ix}.

This Convention has been signed by the Jordanian government in December 1980. It was ratified by the parliament in 1992^x. The preamble of the Convention reads "...the full and completed development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields".

Despite all above, women's participation in development is still below the level desired. Women in Jordan do not occupy high decision making positions with the exception of the limited number of women who have held ministerial posts, or who have won a seat in the House of Deputies, or who became members of the Senate (Amman Announcement, 2002, 13).

It can be said, here, that women's participation in work, or in holding public office, is not governed by the written texts of legislation, but by the unwritten concepts adopted by the society and disseminated by the prevailing cultural norms, which

continue to prevent women's career advancement (Al-Ra'i, 2008b, 6). These concepts may be seen in the social assumption that whatever job the woman takes, she should nevertheless continue her responsibility for homemaking tasks (Goode, 1963, 30; Al-Dawoodi, 2000, 83).

4. Woman's rights under the Jordanian Labour Law No.8 of 1996

This section is divided into two main subsections, which are to be discussed here.

4.1 Jordanian women and labour

The right of every citizen (female or male) is guaranteed by the Jordanian Constitution of 1952, which provides "work is the right of every citizen and the State shall provide opportunities for work to all citizens by directing the national economy and raising its standards" (s.23(1)). (See Ramadan, 2004, 14; Abu Shanab, 2005, 13).

The National Charter of 1990 guarantees the equality of men and women regarding work, education, training etc. It states "women are men's partners and equals in contributing to the

growth and development of the Jordanian society. This requires an affirmation of women's constitutional and legal right to equality, guidance, training and employment as a means of enabling them to play their proper role in the growth and development of society" (chapter five, point no.6).

Jordan is at a critical juncture in the journey towards gender equality. Acknowledged as one of the most active Arab countries in the United Nations' International Conference on Women (1995), Jordan has signed and ratified the major conventions relating to women's rights and enjoys a high degree of commitment to implementing them (Karam, 1998, 29; Jordanian National Commission for Women, 2002, 5; Ministry of Information, 2005a, 11). Jordan's commitment towards women's advancement has been expressed through its continuous participation and positive response to international declarations, e.g. the Mexico City Conference (1975); the Copenhagen Conference (1980); the Nairobi Conference (1985); and the Beijing Conference (1995).

The National Charter of 1990 has provided that "employment opportunities must be provided to all citizens. Policies and

measures must be adopted to achieve this objective, particularly through national plans encouraging labour-intensive economic activities, better working conditions, an improved educational system geared towards the needs of society and a greater social value attached to work of any kind" (chapter four, point no.7).

The first law organizing labour in Jordan is the Labour Unions Law No.35 of 1953, which is continued to be in operation until repealed by the Labour Law No.21 of 1960 (Abu Jaber & Others, 1991, 75). In order to cope with the economic and social development, however, the legislator has enacted the Labour Law No.8 of 1996^{xi}, which has repealed and replaced the Labour Law of 1960 (Al-Dawoodi, 2000, 10; Abu Shanab, 2005, 36).

For the purpose of regulating labour in Jordan, the Ministry of Labour has been established in 1976 (Al-Otoum, 1999, 26; Ramadan, 2004, 36; Abu Shanab, 2005, 37). Under section 10 of the Jordanian Labour Law No.8 of 1996, the Ministry of Labour assumes the functions of organizing the labour market, occupational guidance and formulation of the instructions necessary for providing work and employment opportunities to

Jordanian citizens within and outside the Kingdom in collaboration with the concerned parties.

In recent years, women in Jordan have experienced important changes in their social roles. Jordanian women have recently taken a more active role in economic activities outside the household (Kawar, 2001, 2). For example, women's participation has increased from 7.7% in 1979 to 14% in 1997, thereafter to 18.4% in 2011 (Shakhatreh, 1995, 28; Kawar, 2001, 3; Department of General Statistics, 2011, 2).

Data available from the Department of General Statistics show that unemployment rate for Jordanians in the year 2011 reached 12.5% (10.4% for males, 21.7% for females) (Department of General Statistics, 2011, 10). More than 80% of Jordan's labour force is concentrated in urban areas (Social Security Corporation, 2002, 26; Social Security Corporation, 2003, 19).

A woman has the right to decent work in which women rights are protected, and which generates an adequate income with adequate social protection. In addition, as a woman is physically

and psychologically different from a man, the work she carries out should suit her nature (Al-Tall, 1994, 9).

To implementing that, a special department under the name 'Working Women Department' has been established within the Ministry of Labour in April 2006. This department has two main objectives; namely: i- to remove the obstacles which women face in the labour market through enforcing legislation and improving work place protection, and ii- to promote women's integration in the labour market.

Even though Jordanian Labour Law has not included a general anti-discrimination rule or section, courtesy of section 6(1) of the Constitution of 1952 incorporates a general prohibition on discrimination. Also, minimum age limits for employees is applied to both males and females.

4.2 Aspects of women's protection under the Jordanian Labour Law of 1996

The Jordanian Labour Law No.8 of 1996 (LL 1996) embodies many rules that seek to protect women. Below, are some aspects of this protection:

(i)- Notification of the employee before terminating her work contract

Basically, a work contract should be drawn in Arabic and in two copies at least. If no such contract is made, the worker may establish her rights by all legal means of evidence (s.15(a) LL1996). The duration of the work contract is set by agreement of the parties. If the worker is employed for an indefinite duration, she shall be considered in service until her employment is terminated in accordance with the provisions of the law (s.15(b) LL1996). (See Karam, 1998, 85-87).

If she is employed for a specified period, she shall be considered in service throughout that period. In this case, the contract is automatically terminated at the end of that period. If both parties to the contract continue implementing it after that period has expired, the contract shall be considered to have been renewed as a contract for an indefinite duration, and shall be deemed as such from its commencement (s.15(c) LL1996).

Section 23 LL 1996 states "a- if one of the parties wishes to terminate the unlimited period work contract, she should notify

the other party in writing of her intention to terminate the contract at least one month in advance and the notification may not be withdrawn except with the approval of both parties; b- the work contract shall remain effective throughout the period of notice and such period shall be considered as a part of the period of service; c- if the notice is from the employer, he may relieve the employee from the period therefor and may put her to work except during the last seven days therefor. The employee, in all cases, shall be entitled to her wage for the period of notice; d- if the notice is from the employee and she quitted the work prior to the expiry of the notice period, she shall not be entitled to wages for the period of quitting of work and should compensate the employer for such period the equivalent of her wage for such period". (For details, see Muhmoud, 1987, 481; Al-Qaddoumi, 2000b, 21; Ramadan, 2004, 446-451; Abu Shanab, 2005, 266-67).

If the competent court finds, in a lawsuit instituted by the employee within sixty days from the date of her discharge, that the discharge was arbitrary and in violation of the provisions of law, it may issue an order to the employer to re-instant the employee in her original job, or to pay her compensation in

addition to the payment in link of notice and her other entitlements provided that the amount of such compensation is not less than three months and not more than six months. The benefits shall be calculated on the basis of the last wage received by the employee (s.25 LL 1996). (See the Court of Cassation decision No.3210/2001 on 2/1/2002).

It is impermissible to terminate the service of the employee or serve notice upon her for the termination of her service in any of the following cases: i- the pregnant working woman as of the sixth month of her pregnancy or during the maternity leave; ii- the employee during her military or reserve service; and iii- the employee during her annual or sick leave, or the leave granted to her for purpose of labour culture, pilgrimage or during her mutually agreed upon leave to serve on full time basis for the syndication work or to join a recognized institute, college or university (s.27(a) LL 1996). (See Abu Shanab, 2005, 294-95; the Court of Cassation decision No.1348/2007 on 26/12/2007).

It is important to note that the work contract does not terminate by death of the employer, unless the personality of the employer is observed in the contract (s.22 LL 1996).

(ii)- The employee's right to be paid a terminal benefit

Section 32 LL 1996 provides that with due observance to the provisions of section 28 of this law, the employee, who works for an indefinite period and is not subject to the provisions of the social security law and her service terminates for any reason, shall be entitled to the terminal benefit at the rate of one month wage for every year of her actual service and shall be paid for the fractions of the year a proportionate terminal benefit. The terminal benefit shall be calculated on the basis of her last wage during the period of her employment. However, if the whole or part of the wage is calculated on commission or piece basis, the method adopted for the calculation of the terminal benefit shall be the monthly average of what the employee has actually received during the last twelve months preceding the termination of her service. If her service does not reach this limit, the total monthly average (shall be adopted) and the intervals that fall between one job and another and does not exceed one month shall be considered, upon the calculation of this terminal benefit, as if it is a continuing period of employment. (See Karam, 1998, 197-198; Al-Dawoodi, 2000, 135-138).

The employee who is subject to the special regulations, in the establishment where she is working, pertaining to the provident, saving or pension funds or any other identical funds shall have the right, upon the termination of service, to obtain, in addition to the terminal benefit, all the entitlement granted to her pursuant to such regulations (s.33(a) LL 1996).

If the employee passes away, all her terminal benefit entitlements as provided for in the labour law shall inure, as if her termination of service was made by the employer in addition to her rights in any of the funds provided for under section 33 of the labour law, to her legal heirs (s.34 LL 1996).

(iii)- The employee's right to be provided with an experience certificate upon the termination of her service

Under section 30 LL 1996, the employer is under an obligation to provide the employee, upon the termination of her service, at her request, an experience certificate stating therein the name of employee, type of her work, date of joining service and date of termination of service. The employer shall be obligated to return to the employee any papers, certificates or tools deposited with

him (the employer). This obligation is also stated by section 822(4) of the Civil Code No.43 of 1976 as follows "the employer shall give to the employee on the termination of her service a certificate stating the nature of her work and the dates of its commencement and termination, the amount of her wages and all additional payments she received". (See Yahya, 1989, 337; Al-Qaddoumi, 2000b, 28; Al-Dawoodi, 2000, 25; Abu Shanab, 2005, 260).

(iv)- The employee's right for wages during the temporary suspension of work by the employer

Under section 50 LL 1996, if the employer has to suspend the work temporarily for a reason not attributable to her and which she cannot prevent, the employee shall be entitled to full wage for a period not exceeding the first ten days from the suspension of work within the year and to pay the employee one half of her wage for the period in excess of same whereby the total of the entire period of suspension of work does not exceed sixty days per year.

(v)- Protection of wages

The amount of wage shall be fixed in the contract^{xii}. If the contract does not provide for it, the employee shall receive the wage estimated for a work of the same type; otherwise it shall be estimated according to the custom. If there is no custom, the court shall estimate it (the wage) pursuant to the provisions of the law as being a labour dispute on the wage (s.45 LL 1996). (See Al-Dawoodi, 2000, 112-114; Ramadan, 2004, 136; Abu Shanab, 2005, 213-16).

The wage should be paid within a maximum period of seven days from the date of its entitlement. It is impermissible to deduct any part of it except in the cases prescribed by the law. These cases which are specified by section 47 LL 1996 are:

- i- Employers recovery of advances made to the employee whereby each installment recovered from the advance must not exceed 10% of the wage.
- ii- Recovering any amount paid to the employee in excess of her entitlement.
- iii- Subscriptions of the social security, installments thereof which are payable by the employee, and deductions to be made pursuant to the other laws.

- iv- Employees subscriptions in the provident fund.
- v- Subscriptions relating to the housing facilities provided by the employer and other advantages or services according to the rates or percentages agreed upon between the two parties.
- vi- Every debt collected in execution of a judicial judgment.
- vii- The sums imposed upon the employee because of her violation of the provisions of the establishment's internal regulations, work contract or in return of the materials or tools she had damaged due to her negligence or fault^{xiii}.

(vi)- Organization of the employee's work

The Labour Law of 1996 provides that every employer who engages ten employees and more should draft an internal regulation for organizing the work in his establishment wherein he should outline the working hours, daily and weekly rest period, work violations, penalties and measures taken in respect thereof including the discharge from work, method of its implementation and other details required by the nature of work. The establishments internal regulation shall be subject to the ratification of the Minister of Labour and be put into operation as of the date of its ratification (s.55).

The ordinary working hours shall be eight hours per day provided that the total working hours do not exceed forty-eight hours per week whereby the time allocated for meals and rest shall not be calculated (s.56 LL 1996)^{xiv}. This does not apply to the workers in hotels, hospitals, pharmacies, restaurants and cinemas. (See Karam, 1998, 155-156; Al-Dawoodi, 2000, 90-92).

By virtue of section 57 LL 1996, however, the employer may put the employee to work more than the ordinary working hours in any of the following cases provided that the employee receives, in any of these cases, the overtime pay provided for in this law:

- i- Carrying out the establishments' annual inventory, preparing the balance sheet, and closing accounts, getting ready to sell at discounted prices provided that the number of days on which the provisions of these paragraphs are applied do not exceed thirty days per year and that the actual working hours do not exceed ten hours every day thereof.
- ii- To avoid the occurrence of loss to the goods, or any other item, which is exposed to damage, to avoid the risks of a

technical work or to receive certain materials, delivery or transporting of same. (See Ramadan, 2004, 334-336).

It is to be mentioned, here, that under section 59 LL 1996 it is permissible to put the employee to work with her consent for more than the ordinary working hours provided that the employee receives a wage equal to a minimum of 125% of her ordinary wage for every extra hour. But, if the employee works in her weekly rest day, religious feast holidays or official holidays, she should receive a wage equal to a minimum of 150% of her ordinary wage for every extra hour. (See Ramadan, 2004, 337; Abu Shanab, 2005, 230).

(vii)- The employee's right to get holidays and leaves

Section 60 LL 1996 provides that "a- Friday of every week shall be the employee's weekly holiday, unless the nature of work requires otherwise; b- the employee may, with the employer's approval, combine the days of her weekly holiday and obtain same within a maximum period of one month; c- the employees weekly holiday shall be with full pay unless, she is working on a daily or a weekly basis whereby she shall be entitled, in both cases, to the weekly holiday pay if she works six successive

days prior to the day fixed for the holiday. She shall be entitled, out of this wage, to a proportion of the days she worked during the week if they were three days or more"^{xv}. (See Al-Dawoodi, 2000, 93; Ramadan, 2004, 339; Abu Shanab, 2005, 232).

Under section 61 LL 1996, every employee is entitled to a fourteen day annual leave with full pay for every year of service, unless it has been agreed on greater number thereof provided that the period of the annual leave shall become twenty one days if she remains in the service of the same employer for more than five successive years. The official holidays, religious feasts and weekly holidays shall not be calculated of the annual leave, unless it falls within same. If the employee's period of service did not reach one year, she shall have the right to obtain a leave with pay in proportion to the period of her service during the year.

In addition, every employee is entitled to a-fourteen-day-sick leave with full pay per year based on a report from the physician approved by the establishment. It may be renewed for a further fourteen days with full pay if she is hospitalized in one of the hospitals and with one half pay if it is based on a report of a

medical committee approved by the establishment and was not hospitalized in any hospital (s.65 LL 1996).

The working woman shall have the right to obtain a maternity leave totaling ten weeks with full pay prior to and after delivery provided that the period subsequent to delivery may not be less than six weeks. It shall be prohibited to put her to work prior to the expiry of such period (s.70 LL 1996). (See Al-Qaddoumi, 2000b, 12; Abu Shanab, 2005, 248).

It is to be noted, here, that the Labour Law of 1996 grants woman a maternity leave for ten weeks, while the Individuals' Service in the Armed Forces Law No.2 of 1972 (s.71), and the Officer's Service in the Armed Forces Law No.35 of 1966 (s.108), and the Civil Service Regulation No.30 of 2007 (s.105) grant a woman a maternity leave for three months. This means that section 70 LL 1996 contradicts section 6(1) of the Constitution of 1952, which guarantees the equality of all Jordanians as regards their rights and duties, and makes a distinction between the employee in the public sector and the employee in the private sector.

The woman who works at an establishment which engages ten employees or more shall have the right for a leave without pay for a maximum period of one year in order to devote her full time for looking after her children. She shall have the right to return to her work upon the expiry of this leave, provided that she shall lose this right if she works against payment during such period in any other establishment (s.67 LL 1996). (See Ramadan, 2004, 367-368; Abu Shanab, 2005, 247).

The working woman shall have the right subsequent to the expiry of the maternity leave provided for under section 70 of the labour law, to obtain, within a year of the date of delivery, a period or periods not exceeding one hour in total per day with pay for the purpose of nursing her new born (s.71 LL 1996).

(viii)- Caring for the employees' children

Under section 72 LL 1996, the employer who employs a minimum of twenty female married employees should provide a suitable place (nursery school) under the custody of a qualified nursemaid to care for the employees children of less than four years of age provided that the number is not less than ten

children (see Abu Shanab, 2005, 253; Monahan & Walker, 1990, 129).

(ix)- Safety and precautionary measures

Section 78(a) LL 1996 imposes many obligations on the employer to:

i- Provide the necessary precautions and measures to protect the employees from the hazards and diseases that may result from the work as well as from machines used therein^{xvi}.

ii- Provide employees with personal protection and prevention means from the hazards of work and occupational diseases such as clothes, eye glasses, gloves, shoes and the likes, as well as instructing them on the method of its use, maintenance and cleaning.

iii- Inform the employee prior to engagement of the risks of her occupation and methods of protection to be taken by her. Instructions and directives showing the occupational risks and methods of protection therefrom according to the regulations and decisions issued in this respect should be placed in a conspicuous place.

iv- Provide medical emergency facilities and equipment to employees in the establishment according to the levels

determined by a decision of the Minister of Labour subsequent to seeking the opinions of the competent official authorities. (See Abu Shanab, 2005, 251-257; Ramadan, 2004, 383-386).

The employee may not bear any expenses resulting from the implementation of or providing what is stated above (s.78(b) LL 1996). (See Karam, 1998, 170-172).

In addition, under section 80 LL 1996 the employer should take the precautions necessary for the protection of the establishment and its employees from the hazards of fire and explosions or storage, transporting or handling the inflammable dangerous materials and provide sufficient technical facilities and equipment according to the instructions of the competent official authorities. (See Al-Dawoodi, 2000, 129-131).

(x)- Work injuries

Section 87(a) LL 1996 provides that if the employee sustains a work injury which led to her death, or resulted in a physical injury, which prevented her continuation in work, the employer should transport the injured to a hospital, or a medical center, and notify the competent security authorities of the accident as

well as send a notification thereof to the Ministry of Labour within a maximum period of 48 hours from the occurrence of the accident. The employer shall bear the expenses of transporting the injured to the hospital or medical center for treatment.

The employer shall be liable for the payment of the compensation provided for in the law to the employee who is stricken with one of the occupational diseases, which arises out of her work pursuant to a report from the medical authority (s.88 LL 1996)^{xvii}. (See Abu Shanab, 2005, 256-57)

(xi)- Disable worker

If an employee sustains a work injury, which resulted in a partial permanent disability that does not prevent her from performing a work other than the work she was performing, the employer should place her in another job that suits her condition if such a job exists and against the wages appropriated thereto, provided that her financial rights for the period preceding her injury are to be calculated on the basis of her last wage prior to the injury (s.14 LL 1996). (See Karam, 1998, 65-66; Al-Dawoodi, 2000, 90).

(xii)- Limitations on women's work

After seeking the opinion of the competent official authorities, the Minister of Labour shall determine by a decision: i- the industries and jobs in which it is prohibited to engage women, and ii- the times during which it is not permitted to put to women to work and the exceptional cases therefrom (s.69 LL 1996)^{xviii}. (See Karam, 1998, 68; Al-Qaddoumi, 2000b, 10-11; Ramadan, 2004, 40&226).

(xiii)- Exemption from paying fees and taxes

Under section 137(c) LL 1996, all cases brought by the employees against their employers are exempted from all fees including the execution fees. Similarly, under section 66 of the Social Security Law No.19 of 2001, pensions and lump sum compensations paid in accordance with the provisions of the Social Security Law shall be exempted from all taxes and fees. (See Ramadan, 2004, 59-61).

(xiv)- Establishment of labour unions

The Constitution of 1952 guarantees the workers' right to organize themselves in a labour union in accordance with the

provisions of the labour law (s.23(2)(f)). In addition, section 97(a) LL 1996 gives the employees in any profession the right to establish a labour union for themselves according to the provisions of the law. The employee in such a profession shall have the right of affiliation thereto if she fulfills the conditions of membership^{xix}. (See Ghazwi, 1985, 88-89; Karam, 1998, 205-207; Al-Dawoodi, 2000, 155-159).

The employer shall be prohibited from making the employment of any employee conditional upon her none affiliation to the labour union, waiver of her membership therein, to endeavor to dismiss her from any labour union or prejudice any of her rights due to her affiliation to its membership or participation in its activities off working hours (s.97(b) LL 1996).

However, the Labour Law of 1996 stipulates that the labour union shall not be established, unless by a minimum of fifty founders of those working in the same profession or in identical occupations, or those inter-connected together in the same production (s.98(a) LL 1996).

Section 99(a) LL 1996 defines the objectives of any labour union as follows: i- to look after the interests of employees in the profession and to defend their rights within the scope of the provisions provided for in the law; ii- to provide the medical and social services to the employees affiliated to the union, establishing medical clinics, social welfare and consumer institutions for them, and to endeavor to raise the economic, professional and cultural level of employees.

5. Women's rights under the Jordanian Social Security Law of 2001

This section is divided into three main subsections, which are to be discussed here:

5.1 Social protection

Everybody regardless of where she/he lives needs a minimum level of social protection and income security defined according to the society's capacity and level of development. This will not happen automatically, or by reliance solely on economic and democratic development (Ramadan, 2004, 523). Each country must develop through social dialogue a national social protection system that addresses the needs of all people,

particularly those of women and of the excluded groups working in the informal economy (Al-Shalabi, 1983, 295-296; Al-Qaddoumi, 2000a, 8; Ministry of Information, 2005a, 8-9).

Each country must set priorities according to local resources and circumstances. These priorities must cover a health care insurance, an income security in old age, an insurance against the risks of incapacity and death, etc (Farouq, 1992, 98; Al-Otair, 2004,12).

It is to be mentioned, here, that social security system is an old system (Abbas, 1983, 7; Al-Taher, 1993, 79). It was adopted during the Islamic first eras (Al-Shalabi, 1983, 295). It did not distinguish between a Muslim and non-Muslim. It used to cover all people living in the Islamic state regardless of their race, religion, sex, etc (Al-Khouli, 1981, 223). A clear example can be seen when the Second Caliph, Umar Ibn Al-Khattab (may Allah be pleased with him), has met an old man who is a non-Muslim (Jew) and asked him: "who takes care of you or supports you?" the Jew replied: "no one". Umar felt sorry for his case and said "we did not do justice to you; we took tribute from you when you was a young man and left you when you became

an old man". Then, Umar ordered a permanent pension for him and for all of his dependents. This pension is to be given from the Muslim's Public Treasury (Al-Shalabi, 1983, 296).

5.2 The scope of the application of the Social Security Law of 2001

The first social security law issued in Jordan was the Jordanian Social Security Law No.30 of 1978. The main aim of this law was to protect the working people who are uncovered with any other retirement laws, such as the civil retirement law or the military retirement law, and to grant them more security, safety and stability (Social Security Corporation, 2003, 23). The Social Security Law No.30 of 1978 continued to be in operation until 31 May 2001, the date of the enforcement of the Social Security Law No.19 of 2001^{xx}.

The Social Security Corporation was established in accordance with the Social Security Law No.30 of 1978. It began operating in early 1980, gradually implementing the provisions of the law and focusing initially on the main types of insurance: insurance against work injuries and occupational diseases & insurance

against old age, disability and death (Social Security Corporation, 2002, 39; Al-Otair, 2004, 12).

The Social Security Corporation is not merely a retirement program; it is a social insurance program that has contributed in the Jordanian economy through the past years. The corporation investment rate compared to the size of the economy has increased from 20% in 1998 to 23.6% in 2003 (Social Security Corporation, 2003, 19). The social security indicators show that the total number of the establishments which are engaged in the social security scheme has reached 27905 establishments in 2011 (Department of General Statistics, 2011, 31).

The number of workers who are covered by social security has reached 881,000 workers in 2011 (777,300 Jordanians, 103,700 non-Jordanians). This represents 41% of the total labour force in Jordan. Women constitute only 21% of the workers who are covered by social security (The International Institute for Supporting Women/ Jordan, 2006, 12; Department of General Statistics, 2011, 31). This means that 79% of the working women are deprived from being covered by social security.

The Jordanian Social Security Law No.19 of 2001 has been enacted in order to provide social protection and insurance to all workers who are subject to its rules.

Section 4(a) SSL 2001 states the categories of workers who are covered by social security. It provides that the provisions of the law are applicable to all workers who are not under sixteen years of age without any discrimination as to nationality, and regardless of the duration or form of contract, the nature and amount of wage, and whether the work is to be performed mainly inside or outside the Kingdom, without prejudice to the rules of international agreements regulating the rules of dual coverage. (See Al-Taher, 1993, 128-129).

Section 4(b) SSL 2001 states the categories of workers who are uncovered by social security. It provides that the provisions of this law shall not apply to the following categories: i- public employees subject to the provisions of the pension laws in force; ii- foreign employees employed by the international, political or military foreign missions; and iii- workers whose relationship with the employer is irregular.

However, section 8 SSL 2001 gives the Jordanian worker who works for an employer or is being self-employed, whether residing inside the Kingdom or abroad, or the Jordanian insured person who is uncovered by the provisions of the SSL, the right to voluntarily contribute with the social security and to be covered under the insurance against old age, disability and death, provided that she/he pays in full the contributions due from the employer and the insured.

5.3 Types of insurance which women enjoy under the Social Security Law

By virtue of section 7 SSL 2001, insurance is obligatory on all establishments that employ five workers or more. The law does not make a distinction between workers due to nationality, contract period or form, wage nature or value provided that the wage is not less than the adopted minimum limit for wages which is defined at 110 JD per month^{xxi}.

Under the Social Security Law, the applied types of insurances women enjoy are: i- the insurance against old age, disability and death, and ii- the insurance against work injuries and

occupational diseases. Below, is a discussion of each of these types of insurance:

(i)- Compulsory old age pension

Old-age pension may become due when the insured female reaches the age of (55)^{xxii}. Age shall be verified by an official birth certificate, or any other official document issued by the competent authority when the insured subscribes to the insurance. Any change that may occur to the date of birth thereafter shall be disregarded. The insured shall become entitled to an old-age pension, if she reaches the statutory age and has at least 180 months of contribution out of which 60 in minimum are actual contributions (s.42 SSL 2001). (See Al-Taher, 1993, 87; Ramadan, 2004, 544-545).

In case that the insured female does not reach the period entitling her to the pension, she shall have the right to continue the work or to join a new job after reaching the legally observed age till reaching the age of sixty. In this case, she will be considered covered by the insurance of work injury and occupational diseases, old age, disability and death insurance.

In the decision (No.4530/2005 on 13/6/2006), the Court of Cassation, the highest court in the Jordanian judicial hierarchy, held that according to section 41 of the Social Security Law No.19 of 2001 the insured deserves the old age pension when he reaches the age of 60. Accordingly, the termination of the employee's services is not an abusive dismissal, but it is a justified dismissal. (See also the High Court of Justice decisions: No.16/1990 on 29/5/1990 & No.400/1999 on 20/1/2000).

(ii)- Early age pension

Early age pension may become due when the insured female reaches the age of (45)^{xxiii}. Section 44(a) SSL 2001 provides that upon request of the insured, the JSSC shall allocate for her a pension (an early retirement pension) if her service is terminated for any reason, provided that her contribution period in the insurance amounts to 180 actual contributions and she has reached the age of 45.

The insured woman may apply for combining previous services in order to increase the retirement pension provided that she shall apply within the period of inclusion within provisions of

Law or paying the due sums in return for combining the previous service within the period of inclusion within provisions of the law (Al-Taher, 1993, 101).

In the decision (No.1998/2005 on 22/11/2005) the Court of Cassation held that if the conditions stipulated by section 44(a) of the Social Security Law as to the age, number of contributions, and termination of the service, are met then the employee becomes entitled to an early age pension, as specified by the law.

(iii)- Disability due to natural causes pension

According to section 48 SSL 2001, the insured woman has no right to claim for the natural permanent total or partial disability pension, unless she fulfills the following: i- confirmation of the disability by a decision of the medical reference; ii- her service is terminated for medical reasons, and she applies for allocating a permanent total natural disability pension before reaching the statutory age (55 years); and iii- her actual contributions shall be no less than 60 contributions, 36 of which are consecutive. (See Ramadan, 2004, 547-548).

The insured disability, total or partial, may be confirmed by the corporation medical committee and she has the right to object before the appeal medical committee within 15 days from the date of decision notification. The decision of the appeal medical committee can be objected before the Supreme Court within 60 days of the decision notification (see Al-Taher, 1993, 109).

In the decision (No.2817/2004 on 12/12/2004), the Court of Cassation held that the employee's entitlement for total disability pension is conditional. It requires that the services of the employee are not to be terminated because she has reached the age of sixty, but because she is no longer able to do her job, or to provide her services to the employer. The court added that the total disability must be proved by a final and conclusive medical report from the authorized medical reference. This report should state that the employee has suffered from a total disability, and accordingly she is no longer able to work. It, further, should recommend the termination of the employee's services.

In another decision given by the High Court of Justice, it was held that the Medical Board in the Social Security Corporation

and the Appellate Medical Board are the only medical references, which are authorized by the Social Security Law to evaluate the cases of physical disability and traumatic disability. By virtue of section 2 of the Social Security Law No.19 of 2001, the Appellate Medical Board in the Social Security Corporation is the authorized medical reference, and by virtue of the Medical Board Regulation No.58 of 1977 (which is issued in accordance with the Public Health Act), the High Medical Board in the Ministry of Health is the authorized medical reference within the Ministry. These Boards enjoy the discretion which is supported by the technical experience when they give their decisions.

The Court went on to say that since the employer disregarded the reports given by the above Medical Boards and since the employee was given a final report stating that she was suffering a serious mental illness and hallucination, then the employer's decision is contrary to the rules of the law, and accordingly it should be cancelled (the High Court of Justice decision No.374/2003 on 20/11/2003). (See also, the Court of Cassation decisions: No.1402/1995 on 21/10/1995 & No.2967/1999 on 9/5/2000).

(iv)- Death due to natural causes

Section 47(a) SSL 2001 provides that the survivor's pension shall be due if death related to natural causes occurs during the actual employment service of the insured, for which contributions are paid, provided that the insured has paid no less than 24 contributions, 12 of which are consecutive.

According to section 47(b) SSL 2001, the survivor's pension shall be calculated as follows: 1- 50% of the average monthly wage which was taken as a basis for paying the contribution during the last 12 months; 2- the pension mentioned in item (1) of this sub-paragraph shall be increased by 0.5% for every year of contribution of the insured, if the period of her contribution amounts to at least 60 contributions, provided that this percentage shall be increased by 1% if the period of her contribution amounts to at least 120 contributions.

According to section 51 SSL 2001, if the employment of the insured comes to an end due to death, or natural disability, or because of reaching old-age, without the completion of the conditions required for being entitled to an old age or survivors

or disability pension, the insured or her beneficiaries, as the case may be, shall be granted a lump sum compensation at the rate of 15% of the average monthly wage for the last 24 contributions or the average monthly wage multiplied by the months of contribution if the period of contribution is less than that. (See Ramadan, 2004, 546-547).

In the decision (No.122/1994 on 31/5/1994), the High Court of Justice held that the death and the natural disability pension is calculated on the basis of 50% of the average monthly wage, which was taken as a basis for paying the contribution during the last 12 months.

(v)- Work injuries insurance

Work injury is defined by section 2 SSL 2001 as the infection of one of the occupational diseases stated in Table No.1 supplemented to the Social Security Law, or any other diseases which the JSSC Board of Directors decides to be added to that table upon a recommendation by the medical reference, or the injury resulted from an accident that took place during the performance of duty or because of it, including any accident takes place while the insured is heading for or returning from

her work provided that the insured is going to and coming from the worksite.

The monthly work injuries contribution percentage shall be calculated to the amount of 2% of the insured wage and to be paid by the employer. The Board of Directors is allowed to reduce the adopted contribution fees at the rate of 50% of the actual value if the employer takes upon herself the medical treatment and the outlay of the daily allowances for a temporal work disability according to the rules of law provided that the employer submits the statements demonstrating that to the Corporation (s.24 SSL 2001).

It is stipulated that the injury is to occur during the time of work performance. This includes the time that the worker spends in the worksite, or when she is available to perform her duties in the worksite. It is not imposed as a condition that the causing accident occurs during the worker performance of duty since it is enough that the causing accident occurs during the work time, even if the reasons are unrelated to the work conditions, nature or tools.

This includes road accident on the condition that the accident takes place while the insured is heading for or returning from her work without any lag, interruption, or changing the normal usual direction.

In its decision (No.346/1997 on 6/12/1997), the High Court of Justice held that section 2 of the Social Security Law considers it as a work injury the injury which happens to the employee during her travel from her home to the worksite. Accordingly, since the death accident happened on the employee's way from Salt to the University of Jordan in Amman in order to perform her job and to render her services to her employer (the University of Jordan), the employee's heirs are entitled to receive a death retirement salary. (See the High Court of Justice decisions: No.1518/1993 on 12/5/1994; No.122/1994 on 31/5/1994; No.7/1998 on 26/5/1998; and No.471/1999 on 31/5/2000).

In another decision (No.4199/2003 on 4/5/2004), the Court of Cassation held that the compensation for a work injury is governed by the Social Security Law, and for the employer to be held liable for the payment of compensation, the injury must

be as a result of gross fault or negligence from the part of the employer. The employee who worked for additional working hours enjoyed the rights decided to her according to sections 59 & 60 of the Labour Law No.8 of 1996 and these additional working hours did not amount to gross fault or negligence from the part of the employer in order to establish his responsibility towards the employee who suffered an injury (blood clot) later on.

(vi)- Disability due to work injury pension

As said above, work injury includes the injury resulted from an accident that took place during the performance of duty, or because of it, including any accident takes place while the insured is heading for or returning from her work provided that the insured is going to and coming back from the worksite.

In order to be entitled to an occupational total disability pension or natural permanent partial disability pension, the employer should satisfy the following conditions: i- the disability must be attributable to a work injury accepted by the Corporation; and ii- the disability must be established by the Medical Committee of the Corporation.

The injury disability pension will be considered due starting from the date of establishing the disability which is determined by the medical reference. In case of the occupational disease, the medical reference must determine the date of the insured infection and the date of her disability which makes the date of starting the outlay of the disability pension.

In the decision (No.2529/1998 on 30/6/1999), the Court of Cassation held that the compensation stated by sections 54-60 of the Labour Law No.21 of 1960 includes the compensation for a work injury and occupational diseases, but it does not include the compensation for natural disability, which the employee suffered and which was proven by a medical committee.

(vii)- Death due to work injury pension

It is stipulated for the insured party entitlement for a death pension that the insured was exposed to a work injury led to her death taking into consideration that there is no stipulation restricts the contribution's duration. A judicial medical report indicating the death cause and police investigations on the incident is required.

The amount of pension shall be considered conclusive and irrevocable at any administrative or juridical authority after two years from the date of the notification delivery of allocating the pension.

In the decision (No.1981/1999 on 10/2/2000), the Court of Cassation held that since the injury (the murder) occurred during the time of work performance and because of the employee's work, it is included within the definition of the work injury laid down by section 2 of the Labour Law No.8 of 1996, and accordingly it is considered as a work injury for the purpose of applying the rules of the Labour Law. (See also the Court of Cassation decisions: No.97/1980 on 26/3/1980 & No.50/1986 on 16/2/1986).

Conclusions & recommendations

Islamic history is rich with women of great achievements in all fields of life. Throughout this history, the reputation, chastity and maternal role of Muslim women were objects of admiration. 1400 years ago, a Muslim woman was given many rights which most women do not enjoy today, even in the West. These rights

are from Allah, the Almighty, and they are designed to keep balance in a society; what may seem unjust or missing in one place is compensated for or explained in another place.

Women are given the right of spiritual equality with men, the right to acquire knowledge and education, the right to participate in the economic, political and social spheres of the society, the right to own property and to enter into legal contracts, and the right to manage all of her assets and to run her own business.

However, there are some differences between men and women in Islam. These differences include those which are related to the responsibility in financial sustenance or burdens of living, quorum of testimony, guardianship, patrimony, the privilege in giving divorce, polygamy, and the authorization to marry from the people of the Holy Book.

In Jordan, many governmental and non-governmental associations and organizations are established for the purpose of protecting women's social rights and increasing women's participation in decision-making processes, and empowering

their participation in socio-economic activities. This is accompanied by the enactment of many social legislations that aim to take care of women. This remarkable social and economic progress was reflected, in a positive way, in the role of women in the development of the society.

Under Jordanian legislations, women are protected and this protection stems from the provisions of the Jordanian Constitution of 1952 and the National Charter of 1990, which both affirm the principle of equality and equal opportunities for all citizens, males and females.

Under the Jordanian Labour Law and the Social Security Law, women are protected in many matters, and this protection has positively influenced their role in the development of the society.

For the purpose of enhancing the role of women, however, it seems appropriate to put forward these recommendations:

(i)- The Jordanian government and parliament should amend the laws and legislations dealing with women's interests and rights

to eliminate any existed forms of discrimination against them, and boost their role and status in the society.

(ii)- The Jordanian government should monitor the employment procedures of governmental entities to ensure non-discrimination against women and that all employment opportunities are available to them. It should do its best to strengthen women's status and role in the society and develop social concepts to bolster women's role in the social development.

(iii)- The Jordanian government and parliament should enact or amend the applicable laws which are necessary to conform with the international conventions dealing with women's issues, without prejudice to the cultural uniqueness of the Jordanian society.

(iv)- The Jordanian governmental and private institutions should use the media, including publications, seminars and workshops, to educate women about legitimate issues of interest to them and the measures needed to exercise their rights in the various areas.

(v)- Governmental and private institutions should provide counseling services at work for women, and create organized and legal channels for claiming women's human rights and offer relevant advice.

(vi)- The Jordanian legislator should review section 70 of the Labour Law No.8 of 1996, which grants women a maternity leave for ten weeks. Section 70 should state "the working woman shall have the right to obtain a maternity leave totaling three months with full pay...". This will be in harmony with the Constitution of 1952 (s.6(1)) which guarantees the equality of all Jordanians as regards their rights and duties, as well as with the Law of the Service of Individuals in the Armed Forces of 1972 (s.71), the Law of the Service of Officers in the Armed Forces of 1966 (s.108), and the Civil Service Regulation of 2007 (s.105) which grant women a maternity leave for three months.

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Endnotes

ⁱ Islamic law is in Arabic known as the Shari'a, which means the right path, and it refers to the fact that Islamic law is an all-encompassing set of principles, which guide the Muslim down the right path towards a pure life consistent with Islam, whose reward will be everlasting life in Paradise (Al-Shalabi, 1983, 28; Abdul Azeez, 1413H, pp.3-4).

ⁱⁱ Ibn Abbas is reported to have asked Umar about the manner in which "three days after Hamza had embraced he embraced Islam. Umar said Islam, I went out of my house, to meet by chance a man of the Makhzumi tribe whom I asked: "Do you prefer Muhammad's faith over that of your own forefathers?" The Makhzumi said: "One who is more closely related to you than myself has also done so". I asked him, who it was. Your sister and your brother-in-law, replied the Makhzumi. I hurried back and found the door of my sister's house bolted from within; and I heard some humming inside. Later, when the door was opened, I entered the house and asked: What is it that I am hearing? My sister replied: "You heard nothing; we were exchanging words". Then, I struck her on the head, whereupon she stated defiantly: "We do that whether you like it or not". I was filled with remorse when I saw her bleeding, and said to her: "Show me the scripture". When I saw the scripture and (Al-Asqalani, 1408H)."read it I felt sorry and decided to embrace Islam

ⁱⁱⁱ Associated with the movement for social freedom for women is a demand for the abolition of polygamy. It is claimed that polygamy is contrary not only to the spirit of Islam, but it is also out of harmony with conceptions of modern social ethics. The modernists find no difficulty in explaining away one text of the primary source of law, the Quran, which permits a man to marry more than one woman, by another text of the same source which stipulates for a strict quality of treatment between the wives. As this is a virtual impossibility, they maintain that it amounts to an implied prohibition of polygamy (Zagday M.I, 1948, 215; Esposito J, 1982, 4).

^{iv} At present, there are 7 women in the House of Deputies.

^v See www.parliament.gov.jo/ummah/history.

^{vi} The Charter was drafted by a sixty-member royal commission, which was appointed by HM King Hussein in April 1990. It was adopted in June 1991 at a national conference of two thousand leading Jordanians.

^{vii} This Code was published in the Official Gazette No.4106 on 16 March

1996.

^{viii} See sections 805-832 of the Code.

^{ix} Section 1 of the Convention defines discrimination as "any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

^x See www.noor.gov.jo/main/womenjo.htm.

^{xi} The Labour Law No.8 of 1996 was published on page No.1173 of the Official Gazette No.4113 on 16 April 1996. It became effective as of 16 June 1996.

^{xii} The Jordanian Constitution of 1952 provides for the protection of wages. It states "the State shall protect labour and enact a legislation therefor based on the following principles: (a)- every worker shall receive wages commensurate with the quantity and quality of her/his work" (s.23(1)).

^{xiii} See the Court of Cassation decision No.1948/2007 on 2/2/2008 (Adaleh Publications: www.adaleh.com).

^{xiv} The Jordanian Constitution of 1952 provides "the number of the weekly working hours shall be defined..." (s.23(1)(b)).

^{xv} The Jordanian Constitution of 1952 provides "... workers shall be given weekly and annual days of paid rest" (s.23(1)(b)).

^{xvi} The Jordanian Constitution of 1952 provides "factories and workshops shall be subject to health safeguards" (s.23(1)(e)).

^{xvii} The Jordanian Constitution of 1952 provides "special compensation shall be given to workers supporting families and on dismissal, illness, disability and emergencies arising out of the nature of their work" (s.23(1)(c)).

^{xviii} The Jordanian Constitution of 1952 provides "special conditions shall be made for the employment of women and juveniles" (s.23(1)(d)).

^{xix} Foreign workers are not allowed to affiliate to labour unions. This means that more than 36,000 workers who work in the industrial zones in Jordan are excluded from being given the right to become members of labour unions (Al-Ra'i, 2006, 25).

^{xx} The Social Security Law No.19 of 2001 was published on page No.1948 of the Official Gazette No.4489 on 31 May 2001. It became enforceable as of the date of its publication in the Official Gazette.

^{xxi} See the Council of Ministers' decision, which was published on the Official Gazette No.4761 on 1/6/2006.

^{xxii} The insured male will not be entitled to the old age pension, unless he reaches the age of 60.

^{xxiii} The insured male will be entitled to the early age pension if he reaches the same age (i.e. 45 years).