



# **The Arab Forum for Development and Employment (Doha 15-16 November 2008)**

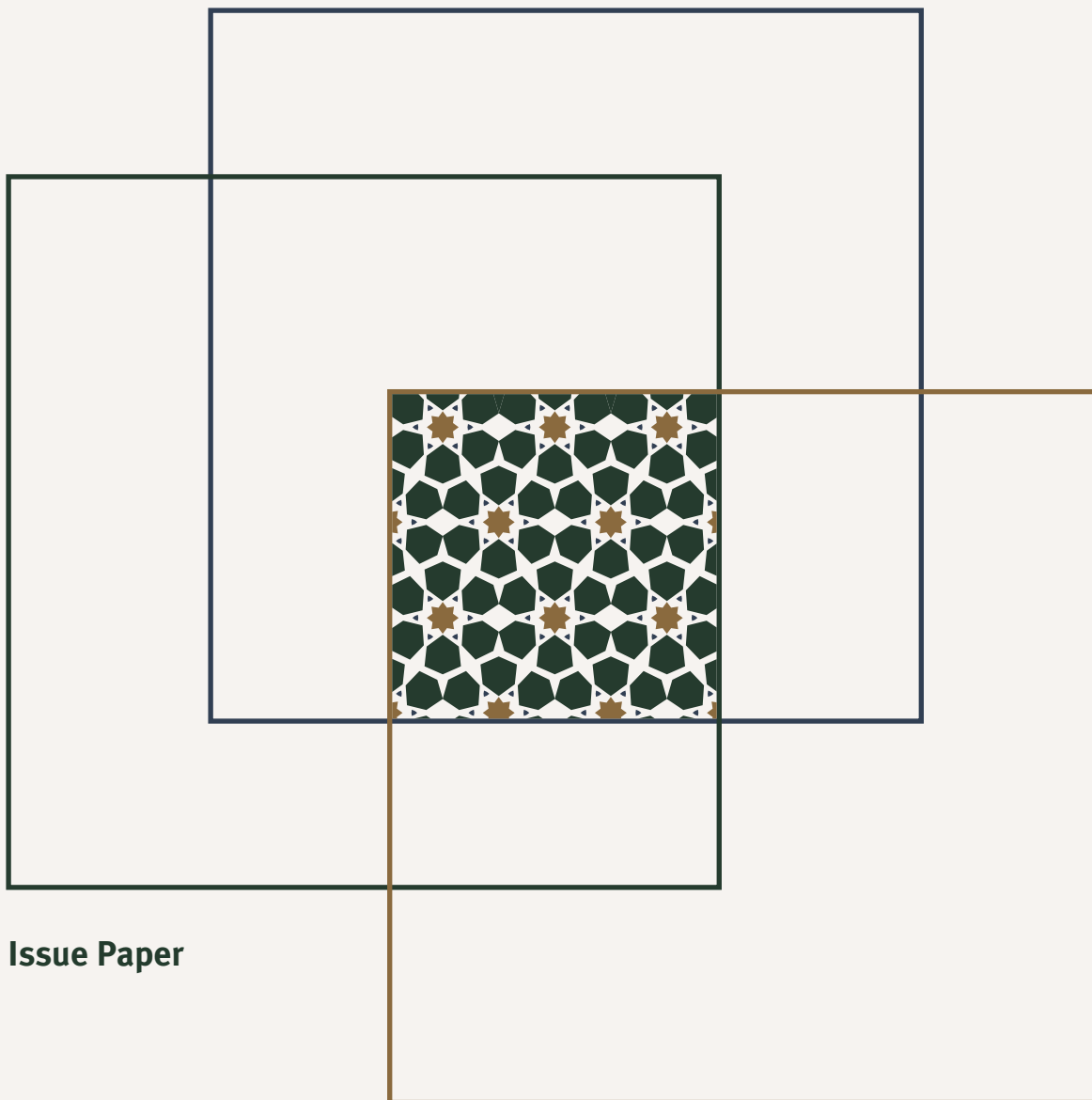
## **Institutions And Policies For Equitable And Efficient Labour Market Governance In The Arab Region**

**By  
I.L.O**



International  
Labour  
Office

# Institutions and Policies for Equitable and Efficient Labour Market Governance in the Arab Region



**Issue Paper**

**Arab Forum on Development and Employment  
Doha, Qatar 15 - 16 November 2008**



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**International Labour Office**

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# ILO Contribution To The Arab Forum On Development And Employment

## Issue Papers<sup>1</sup>

This paper is one of five issue papers that were prepared by the ILO as a contribution towards the Arab Forum on Development and Employment. The subjects of these issue papers are:

- Growth, employment and decent work in the Arab region: an overview
- Promoting employment opportunities for young men and women in the Arab region
- Skills for employability of workers and productivity of enterprises in Arab states
- Sustainable enterprise development and employment creation
- Institutions and policies for equitable and efficient labour market governance in the Arab region

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The choice of the themes reflects the priority areas and employment challenges facing the Arab region. These papers provide the background material for the realization of commitments made at the global and regional levels on decent work. Moreover, these issue papers are complimentary to ILO approaches and they build on an on-going process to support the realization of decent work at the global level.

At the Fourteenth Asian Regional Meeting held in Busan, Korea, in August/September 2006 the tripartite delegates launched an Asian Decent Work Decade and committed to the achievement of specific decent work outcomes. The Meeting recommended cooperation on specific initiatives at the regional level, where joint action and sharing of knowledge and expertise will contribute to the realization of decent work. Recommendations also included strengthening employment services, developing reliable regional statistics to complement decision-making, providing support services for small enterprises, establishing benchmarks and good practices on the extension of social protection and strengthening labour inspection, dispute prevention and settlement.<sup>2</sup>

At the 11th African Regional Meeting, which took place in Addis Ababa in April 2007, tripartite delegations from Arab countries in Africa committed themselves to a series of targets for the development of integrated Decent Work Country Programmes to accelerate progress towards the achievement of agreed international development goals including the Millennium Development Goals. The conclusions of the Meeting emphasized specific goals, including closure of the skills gap, social inclusion through job creation, tripartism as a key governance mechanism for inclusive poverty-reducing growth, a fair regional policy

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<sup>1</sup> The objectives of these papers are to stimulate the debate and the content should not be quoted without ILO authorization.

<sup>2</sup> For further information, visit <http://www.ilo.org/public/english/region/asro/bangkok/>

on migrant workers, freedom of association, the elimination of child labour, slavery and discrimination, the extension of a basic social protection package for poverty reduction, and escape from the informal economy trap. The constituents also committed themselves to the African Decent Work Decade for the period 2007 - 2015, following up on the conclusions of the Ouagadougou Summit of 2004 and its Declaration, Plan of Action and Follow-up Mechanism on Employment and Poverty Alleviation in Africa.<sup>3</sup>

The conclusions of the 35th Arab Labour Organization Conference (February 2008) call for greater regional cooperation in the areas of employment, human resources and social dialogue, with emphasis on developing regional initiatives, including a unified Arab Labour Law and creating regional mechanisms to tackle shared challenges, such as the establishment of an Arab Tripartite Forum and an Arab Labour Market Information System. The ALO has highlighted the need for greater regional cooperation and coordination with the ILO to address unemployment and existing decent work deficits.

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<sup>3</sup> For further information, visit <http://www.ilo.org/public/english/region/afpro/addisababa/index.htm>

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## Executive Summary

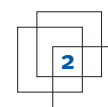
Labour market governance is about the definition of the principles that governments, employers and workers use to design labour market systems that incorporate commonly agreed upon standards and policies. Today, the changing patterns in the world of work are increasing the relevance of Labour market governance. With globalization, economies are becoming more complex and new rules are needed to cover a wide variety of work situations. Adjusting to new circumstances requires actions of various types to encourage working arrangements that are both efficient and fair. In the Arab region, national governments are facing a gap between ambitions for global economic integration and a limited ability to deliver the change required in labour market governance. As such, and like elsewhere in the world, the need for efficient and equitable labour market governance is taking a new urgency.

This paper reviews an array of interconnected issues related to Labour market governance. The aim is to demonstrate the importance of an integrated approach based on efficiency and equity for improving the functioning of the labour market. The paper provides an overview of ratification and implementation of ILO fundamental principles and rights at work since this provides an assessment of universally accepted minimum standards of fairness. While the Arab region has a solid record of ratifying ILO Fundamental conventions, some gaps still exist especially in terms of Freedom of Association and Collective Bargaining. These gaps do not only relate to ratification but also to adherence to ratified conventions.

In many countries of the region there are facing current debates around labour market reform. This involves institutional reforms, labour law reforms and the role of social dialogue. Some of this on-going debate is driven on the basis that the labour market is over regulated and any reform should reduce the role of official labour market institutions in managing the labour market. Nevertheless, this paper tries to demonstrate that the focus should not be about the perceived negative impact of labour market regulations. The focus should be on re-regulating the existing framework and improving the efficiency of the relevant institutions and policies. New policies and laws should be designed to address new trends in the world of work. Several examples from the region are used to demonstrate this needed balance.

With the changing nature of labour markets in the region expectations for governmental services are rising in terms of operational efficiency and service quality. This applies in general terms to employment related services such as employment services and labour market information. In many cases, however, these services are not as efficient and yet there are country level good practice examples which are highlighted.

The existing diversity of situations among the countries of the region means that each country needs to develop its own route for improving the legal, administrative and institutional framework of labour market governance in order to be better enabled to generate more and better jobs. These different routes however should all lead to a common minimum social floor of standards and rights and which is effectively delivered.



## Introduction

1. The world of work is diverse and is constantly changing to meet new challenges. These challenges can bring about opportunities as well as conflicts for workers, employers and governments. With globalization, economies become more complex and new rules to cover a wide variety of work situations are needed. Adjusting to new circumstances requires actions of various types to encourage working arrangements that are both efficient and fair. Efficient, in terms of maximising the employment generation potential, and fair, in terms of creating a common social floor of standards and rights.
2. Labour market governance is about the definition of the principles that governments, employers and workers use to design labour market systems that incorporate commonly agreed upon standards and policies<sup>4</sup>. The term describes a range of public and private institutions, structures of authority and means for collaboration that coordinate or control activity at the work level and in the labour market<sup>5</sup>. Today, the changing patterns in the world of work are increasing the relevance of labour market governance. This has been recently highlighted in a 2008 ILO Declaration on Social justice for a fair globalization<sup>6</sup>.
3. In the Arab region, national governments are facing a gap between ambitions for global economic integration and a limited ability to deliver change. As such, and like elsewhere, the need for efficient and equitable labour market governance is taking a new urgency. This paper aims to shed some light on recent trends and effective approaches to Labour market governance in Arab countries. It provides a review of a selected number of issues which include the following: an overview of fundamental principles and rights at work in the Arab region; current trends in reforming labour market institutions; experiences in labour law reform and the balance between flexibility and employment security; the role of social dialogue in a changing labour market environment; and finally, improving the performance of public services through zooming on labour market information and employment services.

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<sup>4</sup> ILO: *Changing patterns in the world of work* (Geneva, 2006), pp. 46.

<sup>5</sup> *ibid*

<sup>6</sup> The Declaration called for updating and promoting the most significant standards related to governance. These standards include labour Inspection Convention No. 81, the Employment Policy Convention, No. 122, the Labour Inspection (Agriculture) Convention No. 129, and the Tripartite Consultation (International Labour Standards) Convention, No. 144.

## 1. Fundamental Rights at Work in the Arab Region

4. The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, refers to the principles concerning the fundamental rights that are the subject of the eight Conventions on: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. Taken together, these principles constitute a global social floor for the governance of the world of work on which all countries can build an institutional framework (see box 1).

### BOX 1. ILO FUNDAMENTAL CONVENTIONS

#### Collective bargaining and Freedom of Association

- The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87);
- The Right to Organise and Collective Bargaining Convention, 1949 (No.98) (C.98);

#### Elimination of Forced Labour and Human Trafficking

- The Forced Labour Convention, 1930 (No. 29) (C.29);
- The Abolition of Forced Labour Convention, 1957 (No. 105) (C.105);

#### Abolition of Child Labour

- The Minimum Age Convention, 1973 (No. 138) (C.138);
- The Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182);

#### Equality and Non-Discrimination

- The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111);
- The Equal Remuneration Convention, 1951 (No. 100) (C.100).

5. Table one shows that other than ILO conventions on Freedom of Association and Discrimination, Arab countries have a solid record of ratifying ILO core conventions. Eight countries have already ratified all ILO fundamental conventions. These are Algeria, Egypt, Syria, Tunisia, Djibouti, Yemen, Comoros and Mauritania. Six other countries have ratified all the fundamental conventions except Convention No. 87 (Jordan, Lebanon, Morocco and Iraq).

**Table 1: Ratifications Of Ilo Fundamental Conventions By Arab Countries**  
**Source: Ilo Natlex**

Country	ILO Conventions on Forced Labour		ILO Conventions on Freedom of Association and Collective Bargaining		ILO Conventions on Non-discrimination		ILO Conventions on Child Labour	
	C.29	C.105	C.87	C.98	C.100	C.111	C.138	C.182
	Algeria	1962	1969	1962	1962	1962	1969	1984
Bahrain	1981	1998	–	–	–	2000	–	2001
Comoros	1978	1978	1978	1978	1978	1978	2004	2004
Djibouti	1978	1978	1978	1978	1978	2005	2005	2005
Egypt	1955	1958	1957	1954	1960	1960	1999	2002
Iraq	1962	1959	–	1962	1963	1959	1985	2001
Jordan	1966	1958	–	1968	1966	1963	2000	1998
Kuwait	1968	1961	1961	2007	–	1966	1999	2000
Lebanon	1977	1977	–	1977	1977	1977	2003	2001
Libya	1961	1961	2000	1962	1962	1961	1975	2000
Mauritania	1961	1997	1961	2001	2001	1963	2001	2001
Morocco	1957	1966	–	1957	1979	1963	2000	2001
Oman	1998	2005	–	–	–	–	–	2001
Qatar	1998	2007	–	–	–	1976	2006	2000
Saudi Arabia	1978	1978	–	–	1978	1978	–	2001
Somalia	1960	1961	–	–	–	1961	–	–
Sudan	1957	1970	–	1957	1970	1970	2002	2003
Syria	1960	1958	1960	1957	1957	1960	2001	2003
Tunisia	1962	1959	1957	1957	1968	19659	1995	2000
United Arab Emirates	1982	1997	–	–	1997	2001	1998	2001
Yemen	1969	1969	1976	1969	1969	2000	2000	2000

6. The table also reveals that GCC countries (Gulf Cooperation Council) have been slower in ratifying some of the core conventions. Nevertheless, convention ratification, or lack thereof, does not necessarily correlate with either the law or the actual practice in a given country. For example, neither Jordan nor Bahrain has ratified Convention No. 87 on freedom of association, yet trade unions have operated legally in Jordan since the 1950s. Bahrain, where unions were prohibited, has permitted their establishment during 2002. On the other hand, ratification does not always necessarily translate into adherence to the standards embodied in these conventions. Algeria, Egypt and Syria, who are all early signatories to Convention No. 87, either allow for only one trade union confederation to represent workers or puts restrictions on the number of unions<sup>7</sup>.

### 1.1 Freedom Of Association And The Right To Collective Bargaining

7. Up to date, no less than ten Arab countries (Jordan, Lebanon, Morocco, Iraq, Bahrain, Somalia, United Arab Emirates, Qatar, Sudan and Oman) have yet to ratify ILO Convention No. 87 on Freedom of Association, though efforts are underway to address it. In Kuwait, despite the lack of ratification, public sector workers have the right to join unions. According to the law, workers have the right to organize and bargain collectively, but in reality, this is rare and strikes are infrequent. Recently, Bahrain and Oman<sup>8</sup> legalized unions, while UAE has passed a bill law in 2004 granting UAE nationals and foreign to form trade unions committees in companies that employ no less than 20 UAE nationals. This bill however has still not passed<sup>9</sup>.
8. In countries like Lebanon and Jordan, non-nationals are restricted from joining unions. In Jordan, trade union pluralism is inhibited by the registration process within the Ministry of Labour, which provides for the registration of one trade union per profession or sector and the affiliation of trade unions to a single confederation. In Lebanon, with over 700 trade unions, several confederations and more than 160 employers' organisations, trade union pluralism is more apparent. Both countries have restrictions on the right to strike. Recent developments, however, show strong political will to expand rights under freedom of association norms. Lebanon has drafted amendments to the labour code to extend the right to organise to certain previously excluded public sector workers. Jordan has been engaged in a tripartite labour law reform process since early 2004. Earlier this year some amendments have been introduced such as extending the coverage of the labour law to agriculture and domestic workers. Further amendments are expected later this year or early next year, possibly including the right for migrant workers to affiliate to unions.
9. Morocco too, has made concerted efforts to respect the rights under Convention No. 87. It has developed a new comprehensive labour code which introduced legislative amendments to ensure respect for trade unions, and to improve machinery for labour dispute resolution. Nevertheless, acts of anti-union discrimination still occur. In some cases activists workers have faced detention and arrest, or dismissal and criminal sanctions for legitimate trade union activities, although the government is now working with the social partners to review the laws in question<sup>10</sup>.
10. For those countries that have ratified Convention No.87, the effective application of freedom of association and collective bargaining remains a challenge and an on-going process. In Egypt and Syria, the right to association of Union of Workers is closely tied with the political regime and trade union monopoly remains to be the feature. Any union has to integrate the government-organized national union<sup>11</sup>.

<sup>7</sup> ILO: *Report of the committee of experts on the application of conventions and recommendations, Report iii(Part 1A) International Labour Conference, 97th Session, 2008*

<sup>8</sup> For Bahrain this is the 2002 Legislative decree No 33 with respect to promulgating the workers trade union law. For Oman this is the 2006 legislative decree No. 31 on the formation, work and registration system of the trade unions and labour associations the General Federation of the Sultane of Oman's Labourers.

<sup>9</sup> ITUC: *Annual survey of violation of trade union rights, 2007* <http://survey07.itu-csi.org/getcountry.php?IDCountry=ARE&IDLang=EN>

<sup>10</sup> ILO: *Decent work in the Mediterranean countries: An overview*, paper prepared by the Employment Policy Department and presented for the Euro-Med Employment Workshop on 1213- December 2007, Brussels. pp.28

<sup>11</sup> ILO: *Report of the committee of experts on the application of conventions and recommendations*, opt cit.

## 1.2 The Abolition of Child Labour

11. Almost all Arab countries have ratified ILO Convention No. 138 and Convention No. 182 and have set in place strong policies and legislation to overcome child labour. Five countries (Bahrain, Oman, Saudi Arabia, Libya and Somalia) have not yet ratified Convention No. 138. Somalia is the only country which has not ratified Convention No. 182. Jordan has integrated the issue into the National Plan of Action for the Children of Jordan for the years 2004-2013, as well as the National Agenda for 2006 - 2018. The Ministry of Social Development has also included a special budget for child labour activities, while the Ministry of Labour has elaborated a National Policy and Programme Framework for the Elimination of Child Labour. With support from the ILO, Jordan has undertaken training and capacity building of trade union members, educational councillors, labour inspectors, social workers and employers to act against child labour. Recently, the Moroccan government has adopted the 2006 - 2015 Child Rescue Plan, whose first objective is to address the problem of child labour, especially in the informal textile sector.
12. Similarly, in Lebanon, the government has been working with social partners to eliminate child labour. Relevant legislation has been reviewed in line with international instruments and a Child Labour Unit established within the Ministry of Labour. Action at the up-stream policy level includes the development of a National Policy and Programme Framework and the development of a National Steering Committee comprised of twenty five Ministries, Employers and Workers Organisations, NGOs and UN agencies.
13. Egypt has also developed a policy framework to address child labour, notably through its National Strategy for the Progressive Elimination of Child Labour and through the efforts of the Ministry of Manpower and Migration and the National Council for Childhood and Motherhood. In 2003, the Government of Algeria formed an inter-ministerial commission to identify strategies for the elimination of child labour. Tunisia's policies to tackle child labour have been through the enforcement of laws and efforts to create jobs for adults. Tunisia has also developed a Child Protection Plan, and in 2004 hosted the Third Arab Congress on Children's Rights which aimed to harmonize national action plans and international instruments<sup>12</sup>.
14. Bahrain, Oman, Qatar, the UAE and Saudi Arabia have recently adopted new legislation in order to tackle the issue of child labour, especially the using of children as camel jockeys. In these countries, violators of the law banning child camel jockeys may face imprisonment.

## 1.3 The Elimination of Discrimination in Respect of Employment and Occupation

- With the exception of the GCC countries, Arab countries have already ratified Convention No.
15. 100 and Convention No. 111. Discrimination in Convention No. 111 refers to any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
  16. In terms of equality between men and women in the work place, socio-cultural attitudes have not kept pace with legislative reforms and policy measures to promote gender equality. Women in Arab countries still face problems in gaining equal access to the labour market.

Nevertheless, most of the Arab governments have made special provisions for promoting women's economic integration and reducing discrimination in the work place. The Supreme

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<sup>12</sup> ILO: *Decent work in the Mediterranean countries: An overview*, paper prepared by the Employment Policy Department and presented for the Euro-Med Employment Workshop on 1213- December 2007, Brussels. pp.29

17. Council for Women in Bahrain announced a «national strategy for advancement of Bahraini women» on March 8, 2005 which aims to achieve full participation of women in the work force and enable their access to leadership positions both in the public and private sectors. In both Oman and Algeria, gender discrimination is formally prohibited in the workplace, and laws in these two countries provide for equal pay for equal work. The UAE has actively promoted the presence of women in the workplace and which includes a guaranteed job in the public sector. As a result, 41 percent of public sector workers are women.
18. In 2006, Morocco has adopted a national strategy on gender equality, with a new Labour code, which strongly endorses the principles of equality and non-discrimination in the workplace. As a result, recent data reveals that women's access to public sector jobs has significantly improved. Tunisia has passed a law in January 2008, motivated by a desire to allow women to balance family and professional life, by allowing some female employees in the public sector to work part-time while still receiving two thirds of their original salary.<sup>13</sup> In Yemen, the Government had given gender issues great priority in public policy. After adopting a national strategy for gender equality, in 2003, the Ministry of Labour through the help of the ILO had also developed a women's employment strategy. To affirm these commitments the Finance Ministry had created channels for gender-responsive budgeting<sup>14</sup>.
19. In terms of discrimination based on social origin and national extraction, Bahrain has recently adopted new programmes in order to alleviate the high unemployment rate and poverty of the Shi'a community. The programme, which began in 2004, targets Shi'ite youth for recruitment in community police. The programme is symbolically important as it ends Shi'ite exclusion from the security forces.<sup>15</sup> In Lebanon, the Ministry of Labour has recently passed a Decree which allows the Palestinian refugee population to exercise rights on equal footing with all Lebanese citizens. Previously, Palestinian refugees were prohibited from working in a number of occupations outside their camp boundary.
20. In terms of the economic integration of people with disabilities Arab governments place a high priority with public and private organizations working together to solve disability issues. Egypt, for instance, has introduced education services for the visually, hearing and mentally impaired through 165 specialized schools and 204 schools. However, current services cover only about 10% of the total number of persons with disabilities in that country.<sup>16</sup> The Syrian Arab Republic sets targets for employment of persons with disabilities in both governmental and private enterprises. The 1973 constitution of the Syrian Arab Republic guarantees the rights of disabled persons to health and social services. Sudan Social Security Act of 1990 provides for the establishment and the management of a social security fund; for disability, old age and survivors insurance.
21. During 2002, Arab governments launched the Arab Decade of Disabled Persons, 2004-2013. This is a comprehensive plan which seeks to protect and promote the rights disabled people, and which includes skills development and economic integration. Additionally the recent UN General Assembly convention on the rights of the disabled was ratified by a large number Arab countries with the exception of Djibouti, Iraq, Libya, Mauritania and Somalia<sup>17</sup>.

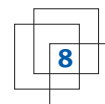
<sup>13</sup> US department of State, *Country Reports on Human Rights Practices 2007*, Released by the Bureau of Democracy, Human Rights, and Labour, March 11, 2008. Also available at <http://www.state.gov/g/drl/rls/hrrpt/2007100607/.htm>

<sup>14</sup> United Nations: *Committee on Elimination of Discrimination against Women: General Assembly WOM 186*, 1 July 2008. <http://www.un.org/News/Press/docs/2008/wom1689.doc.htm>

<sup>15</sup> Bertelsmann Stiftung, BTI 2008 — Bahrain Country Report. Gütersloh: Bertelsmann Stiftung, 2007.

<sup>16</sup> Japan International Cooperation Agency Planning and Evaluation Department: *Country Profile on Disability*, March 2002

<sup>17</sup> For more information see [www.un.org/disabilities](http://www.un.org/disabilities), September 2008.





## 1.4 The Elimination of Forced or Compulsory Labour

22. ILO Convention No. 29 defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (Article 2(1)). The ILO has played an important role in bringing to global attention new forms of forced labour such as trafficking, and in providing the normative framework to address this grave violation of human rights through Convention No. 29 and Convention No. 105. The Arab region is not immune from the phenomenon and almost all countries are affected either as source, destination or transition countries for trafficking. Morocco, for instance, has become a major transit country for the illegal movement of people into the European Union, which in some cases involves human trafficking.
23. Evidence of unscrupulous, deceptive or coercive recruitment practices have been found in the employment of migrant workers in most of the Arab countries, and especially in the importation of Asian workers into GCC countries, primarily to work in the construction industry and in the sector of services. One of the largest problems of forced labour occurs with domestic workers, however, where in countries such as Bahrain, Jordan, Lebanon, Qatar, Saudi Arabia and the UAE, reports of abuse has been repeatedly reported. Domestic workers are not protected by the countries’ labour laws which create an additional space for abuse and exploitation. Nevertheless, many countries are attempting to address the situation. In Saudi Arabia and Jordan special departments in the Ministry of Labour for protection of migrant domestic workers has been set up. In Lebanon, a National Steering Committee, chaired by the Ministry of labour has been established and which is focussing on developing and implementing standardised recruitment procedures and ensuring that migrant women workers are knowledgeable of their rights.
24. Arab countries have made important efforts to address forced labour and human trafficking through legislative reforms. Morocco’s new Labour code provides for extensive penalties for the extraction of forced or compulsory labour. In 2003, the country adopted its first explicit law, aimed at controlling the illegal movement of people into and out of the country. Morocco is also reviewing legislation that is incompatible with Convention No. 29. In Algeria, for instance, the penal code prohibits compulsory labour, including forced or bonded labour of children. Although Egypt lacks an anti-trafficking law, it does prohibit forced labour and prostitution. Despite the efforts of the countries in the region, there is evidence to suggest that trafficking may actually be on the increase. This is partly a result of limited roles and capacities of labour inspectorates and lenient penalties given to convicted traffickers.

## 2. Promoting Institutional Change for Economic Growth and Decent Work

- 25.** With globalization and economic change labour market institutions in many countries find themselves not equipped to adjust to solving today's problems<sup>18</sup>. Over and above, the problems themselves are becoming more complex and there is increased recognition of the poor performance of these institutions. Moreover, there are new international dimensions of labour market governance which are creating an additional pressure. For example, the increasing problems regarding migrant workers conditions and rights at work in many of the Arab countries have put many countries at the spotlight in terms of lack of compliance with international labour standards.
- 26.** As such, there is current debate in many countries of the region around labour market reform. This is increasingly being driven on the basis that the labour market is over regulated and any reform should reduce the role of official labour market institutions in managing the labour market. Nevertheless, focus should not be about the perceived negative impact of labour market regulations. The focus should be on re-regulating the existing framework and improving the efficiency of the relevant institutions. New policies and laws should be designed to address new trends in the world of work<sup>19</sup>.
- 27.** In this regard, there is a need to review and re-engineer existing institutional capacities to implement appropriate labour-market policies. The experience of some East Asian economies has suggested that it is possible to transform institutions and create efficient policy delivery mechanisms within a short time span to promote and support effective labour market reform. The reform of labour market institutions in conjunction with other policies will enable countries to grow faster and this growth will lay the foundation for sustained growth, job creation and poverty reduction<sup>20</sup>.
- 28.** Many countries in the region are implementing reforms in labour market institutions in one way or another. However the most comprehensive example in recent year is Bahrain. With an ambitious growth agenda and a significant employment challenge, Bahrain has embarked on a programme of reform. The Economic Reform Initiative (ERI) is based on three elements: economic reform, labour market reform and education reform. These elements function in close synergy and are intended to transform Bahrain into a globally competitive knowledge-based economy with a strong, robust private sector and highly skilled and adaptable workforce. Bahrain's current labour reform process is being managed across three main national institutions, the Ministry of Labour, and two new entities, The Labour Market Regulatory Authority (LMRA) and the Labour Fund (LF). These new entities are expected to provide policy interventions focused on re-structuring the labour market and investing in the employability and job creation for Bahraini youth.
- 29.** On another level, many countries in the region are reforming labour administration such as labour inspectorates, dispute prevention and settlement and establishing tripartite social dialogue mechanisms. Indeed, there is a growing recognition of the important role labour administration and especially inspection plays in monitoring and enforcing labour standards. Some examples of this are Syria, Egypt, Jordan and Oman. Indeed, Oman has recently recruited around 100 new labour inspectors and is planning to recruit an additional 60 inspectors. In collaboration with the ILO these inspectors have been undergoing an intensive training programme.

<sup>18</sup> Labour market institutions refer include a wide variety of institutional arrangements and which differs across countries. They are: labour administration, training systems, wage –setting boards, social security systems tripartite councils/committees, dispute resolution mechanisms, training institutions and so on.

<sup>19</sup> J. Berg and D. Kucera: *In defence of labour market institutions* (ILO, Geneva , 2008) pp. 2

<sup>20</sup> *ibid.*

### 3. Modernizing Labour Laws: Balancing Flexibility and Employment Security

30. An overview of countries of the region reveals that a large number have recently reformed or are currently reforming the labour law. This momentum is a result of greater globalization dynamics (trade, foreign direct investment, technology and migration) which are creating an urgent need for structural change. National economies are facing intense competition and firms, and hence workers, need to adjust to meet these changes. Within this context, labour law reform is motivated by two major trends. Firstly, there is a greater commitment to give effect to fundamental principles and rights at work, particularly in the fight against discrimination, child labour and forced labour. Often, this move is prompted by International Free trade agreements which usually obligate each signing country to abide by international labour standards<sup>21</sup>. Secondly, there is a growing deregulation agenda through the flexibilization of the employment relationship by lowering the costs of hiring and firing to employers and by introducing new work arrangements. This measure is motivated by the need to address the intensifying competitive pressures brought about by the global economy.
31. As can be seen in the previous section on labour rights, many countries have been making concerted efforts to meet obligations under the ILO fundamental conventions and to ensure minimum standards to govern the world of work. Jordan, Lebanon, Morocco, Egypt, Syria, Bahrain, Oman and Sudan are among some of the countries which have recently undertaken or have committed to undertake an expansion of rights within existing labour legislation compatible with the fundamental conventions. While trade agreements and particularly the US Free trade agreements may have reinforced this trend, it is safe to say that it is not the only driving force towards this reform. Indeed there is an increasing realization that fundamental workers rights and their enforcement are necessary measures for more stable and productive labour markets.
32. The question of increasing labour market flexibility is more complex and is the subject of diverging views amongst the social partners and stands at the heart of the 'rigidity versus flexibility' debate in the labour market reform process. Such debates are often couched in "either-or" terms and miss out on possible nuances of different types of regulation and de-regulation<sup>22</sup>.
33. It should also be borne in mind however, that the protection function of labour rights in many of the countries of the region are only partially achieved, due to widespread enforcement deficiencies and the extent of the informal economy, which by definition remains outside the reach of labour regulations. Furthermore, the absence or limited development of other policies for protecting labour such as unemployment insurance, social safety nets and/or appropriate retraining facilities in the event of labour shedding makes the 'flexicurity' approach, adopted in several European countries, may be less of a policy option for many countries of the region. Finally, it has to be mentioned that in many countries in the region the issues go beyond rigidity versus flexibility. In fact, many countries have segmented labour markets with civil servants enjoying a high degree of labour protection in contrast to private sector workers who does not. This duality is a result of several factors: non-observance of labour law and weak enforcement mechanisms; large number of workers

<sup>21</sup> M. Pripstein Posusney: *Labour Market Flexibilization and Labour Standards in the Arab World* paper presented for the 2006 annual conference of International Studies Association, San Diego, Californian March 21 -25. pp.

<sup>22</sup> For a full review of this debate see S. Cases: *Flexicurity in Europe: A short note on moving forward*. Paper presented at the high level tripartite dialogue on the European Social Model in the context of globalization. International Training Centre of the ILO Turin Italy 13- July 2008.

on short contract which are not protected under the law; a sizeable informal economy and where many social security systems do not obligate employers of less than 5 workers to register. The result of this can be low productivity (as employers, especially of small enterprise, will not invest in short term workers) and voluntary unemployment (as young people wait for secure public sector jobs). As such the focus on labour law reform in the region should be less focussed on increasing flexibility per se and more focussed on reducing this sharp dichotomy between the protected and unprotected labour markets and which entails enforcement mechanisms.

**34.** Recent Labour reforms which have taken place in Egypt (2003) Tunisia (1994 and 1996) Morocco (2003) reveal that these countries are indeed introducing changes aimed at making laws more flexible for employers, particularly with regards to hiring and firing. Yet the approach, process and results are diverse.

### **35. Egypt**

The new legislation which was enacted in 2003 permits multiple renewals of temporary work contracts, effectively making it unlikely that any temporary worker will ever achieve the security of permanent status, or that any new worker will be hired indefinitely. While retaining the requirement that firms obtain government approval for any mass workforce reductions, it signals an era of change by stating explicitly that it is an employer's right to downsize, lower the contractual wage and/or require employees to perform different jobs than they were hired for. Nevertheless, during the long process of negotiations, the workers were given two compensations. The first is a national training fund which was set up to finance the creation and modernization of training centres so that retrenched workers have access to re-training opportunities. Second, the trade unions were granted a limited legalization for the right to strike.

### **36. Tunisia**

The liberalization of work contracts in 1994 and 1996 allowed employers to limit permanent contracts to a four-year period, and eased the conditions under which shorter term temporary contracts could be used. The law also shortened the period allowed for the processing of dismissal applications, and set a ceiling on severance payments. On the other hand, the same reforms provided for greater wage flexibility through allowing for a component of wages to be tied to productivity. It also gave temporary workers the same benefits and protections under the law as those on permanent contracts<sup>23</sup>.

### **37. Morocco**

A tripartite discussion for enacting a more liberal Labour Code started in 1994 and was not completed until 2003 with a tripartite accord. The law traded greater trade union rights for enhanced employer flexibility. It eased conditions for the hiring of temporary workers, by allowing for temporary contracts of up to one year, renewable once, and shortens the time for government processing of retrenchment applications by employers. At the same time the mandatory severance payments for redundant workers increased, which sparked some complaints among factory owners<sup>24</sup>.

**38.** In conclusion, the move towards flexibility in several countries in the region is motivated from a drive to liberalize the economy and reduce the perceived hurdles for productivity, growth and global integration. The above three examples, however, reveal that during negotiations over the new laws, governments and employers expanded union organizing rights for labour leaders' acquiescence to more flexible hiring and firing arrangements. In parallel, negotiations have resulted in some limited forms of protection for workers. Yet, these examples also indicate that negotiations for reforms need to be less centred on hiring and firing only. These negotiations should be broadened to include the employment relationship in general and which govern the reciprocal rights and obligations between employees and employers<sup>25</sup>. Indeed, what is needed is an equilibrium that minimises segmentation among different type of workers coupled with a comprehensive strategy which improves availability of and access to institutions and programmes that improve access to job opportunities.

<sup>23</sup> M. Pripstein Posusney: *Labour Market Flexibilization and Labour Standards in the Arab World*, paper presented for the 2006 annual conference of International Studies Association, San Diego, California March 21 -25. pp. 14 -15.

<sup>24</sup> *ibid*

<sup>25</sup> For more see *Resolution on the employment relationship*, adopted in June 2006, International Labour Conference, 95th session, Geneva, 2006

## 4. Social Dialogue in a Changing Labour Market Environment

39. The best method for developing the right balance at the country level between the need for workers' security on the one hand and coping with competition pressures on the other, is social dialogue. The process of consultation, negotiation and exchange of information among representatives of the government, employers and workers can promote consensus.
40. To support social dialogue, it is the State's responsibility to create an environment that enables autonomous employers' and workers' organizations to operate freely, without fear of reprisal. Even when the dominant relationships are formally bipartite, the State has a role in providing essential support for the process through the establishment of the legal, institutional and other frameworks which enable the parties to engage effectively. Strengthening labour administration is essential to promote effective social dialogue, for example.
41. Investing in social dialogue is a key element in promoting a process of institutional change to improve the performance of labour markets and thus ensures equitable growth. Strong social partners who are able to engage in effective social dialogue only strengthen labour market governance and leads to increased employment generation.
42. Several countries in the region are indeed ensuring strengthened social dialogue and social dialogue institutions. In Morocco, tripartism has played an essential role in improving global competitiveness. The Tripartite Plan of Action for Restructuring the Textile and Garments sector and promoting decent work adopted by the government, employers' and workers' organisations is an excellent example of partnership and commitment to combine economic and social objectives in a win-win plan to consolidate Morocco's trading position in international markets. Social dialogue was also a key priority for Morocco's Decent Work Pilot Programme with the ILO. In the occupied Palestinian territories, a labour assessment has recommended the formation of a Tripartite National Labour Council as a forum to discuss labour market policies. As a result, a training programme on strategies for the promotion of social dialogue and prevention and settlement of disputes was conducted in late 2005, involving participants from the West Bank and Gaza Strip.
43. In Jordan workers and employers organisations have undergone training with ILO support, on collective bargaining, conflict prevention, mediation and conciliation at all levels: enterprise, sectoral and national. A similar process has recently been initiated in Egypt through an ILO project on promoting fundamental principles and rights at work and social dialogue. The project is designed to promote appropriate legal environment and a culture of consultation and dialogue based on the Fundamental Principles and Rights at Work embodied in the ILO Declaration of 1998. The aim is to have competent and representative employers' and workers' organizations which are able to better represent and defend the interests of their members and a strengthened capacity of the Ministry of Manpower to prevent and settle labour disputes.
44. One form of Social dialogue is Economic and Social Councils which include representatives from government, employers, workers, non-governmental organizations, academics, etc. The main purpose of such Councils is to express the will and interests of the civil society on fundamental economic and social policy issues in the country. Algeria has an active Economic and Social Council which is heavily involved in deliberations on issues of national concern such as entry into the WTO and its impact on the economy and negotiations with the EU. Jordan, Lebanon and Syria are at different stages in setting up an Economic and Social Council. In addition to this, and as in the case of Morocco and Jordan, there are tripartite labour advisory

committees. These committees provide a mechanism for joint decision making on key labour market issues. In general however, Arab States can invest in the strengthening of such bodies and similar tripartite institutions so that the latter can play a better role as instruments of effective tripartite deliberations on national economic and social policies needed to secure a balanced development for the benefit of all segments of society.

## 5. Improving Performance of Public Services: Selected Examples

45. With the changing nature of labour markets in the region expectations for governmental services are rising in terms of operational efficiency and service quality. This applies in general terms to employment related services and which can be described as inadequate in term of their ability to respond to the emerging needs. The current status of these services is often a result of limited financial resources, inadequately trained staff, poorly designed and/or outdated programmes/structures and possibly weak supervision and/or mismanagement. In many cases, however, these employment support services are basically over-extended in terms of the responsibility assigned to them given the human and financial resources which are available.
46. Employment related services can cover a wide range of areas related to all active and passive labour market policies. This section, however, will highlight two areas which are of particular concern to all countries of the region. This is labour market data and information and public employment services.

### 5.1 Labour Market Information

47. Labour market data is necessary to provide short and medium term descriptions of the labour market. The focus is usually on both the supply (actual participation in its various dimensions, labour reserve, inactive persons) and demand side (job vacancies). These statistics support the development and coordination of policies in the fields of employment planning and economic and monetary policy. They also help in defining, implementing and monitoring labour market policies. For employers and workers accessible and user-friendly labour market data can provide timely indicators which can inform crucial decisions such as availability of workers in certain sectors, needed qualifications in the labour market etc.
48. The quality and accessibility of labour market statistics in the Arab region widely varies. Nevertheless, a major issue which is commonly found in several countries in the region is the lack of institutional coordination, insufficient analytical capacity and lack of labour market monitoring tools. Often there is a significant gap between the producers and users of data.
49. One of the main sources for labour market data are labour force surveys. Ideally these surveys are based on international standard classifications and undertaken on a quarterly basis. As such they can provide organized information meaningfully and systematically into a standard format that is useful for monitoring the labour market over time. Quarterly Labour force surveys are conducted in Palestine and Jordan. Annual Surveys are conducted in Algeria, Morocco and Qatar. Egypt conducts a Labour force Survey twice a year. Surveys in Bahrain, Lebanon, Oman, Syria, Tunisia and Yemen are conducted on an irregular basis.
50. While labour force surveys and their frequency are important, the quality of these surveys and the extent to which they are based on international standard classifications is as important. Often, the quality of labour market information can be unreliable, outdated or misunderstood. The reasons often include a limited mastery of concepts and methods, a lack of analytical skills and inadequate institutional arrangements for the collection, analysis and dissemination of labour market information. Yet, many countries of the region are producing labour force surveys that fit in the international classifications and are analysed as such. Examples could be cited from Jordan, Bahrain, Algeria, Qatar, Morocco and Tunisia.



51. There are several other complimentary sources for labour market data. For example, there are enterprises surveys which focus on labour demand. This can enable better labour market management especially in terms of policies and programmes that aim to improve the matching between the supply and demand of Labour. These surveys are quite limited and when they exist they are not analysed sufficiently. Algeria, Morocco, Tunisia and Jordan have been quite active in developing alternative tools to monitor their respective labour market evolution.
52. For example, In Morocco, the HCP (Haut Commissariat au Plan) provides many studies on various issues and produces each trimester a set of data about employment and labour market indicators<sup>26</sup>. Tunisia has introduced the “tableau de bord de l’emploi”, a monthly publication that presents the main trends on the labour market. Jordan produces regular assessments of trends in labour market demand through jobs advertised in newspaper on a quarterly basis. They also produce occupational projections study which identifies job losses and gains in different sectors<sup>27</sup>.
53. A major issue which is commonly found in several countries in the region are the institutional arrangements related to labour market information. Indeed there is a lack of coordination between the producers and the users of data. Most Ministries of Labour do not have clearly defined responsibilities in regard to the production of labour market information. In many cases the reason behind this is that labour ministries lack the analytical capacity. Oftentimes, Public Employment Services which are under the purview of Ministries of Labour register and match job seekers with job vacancies. This information, if recorded accurately and continuously can provide useful information on short term fluctuations in labour supply and demand. However, these are considered administrative records which cannot provide a comprehensive picture of the situation in the labour market. Since much of recruitment takes place without the involvement of these offices.

## 5.2 Employment Services

54. The broad functions of employment services are derived from the two principal ILO Conventions concerning public employment services, Convention No. 88 and private employment agencies Convention No. 181. Public Employment Services (PES) first appeared in developed countries in order to address the structural problems of the labour market and the issue of unemployment. Originally, their main goal was to assist job seekers in finding jobs and employers to fill vacancies. In fact, in developed countries, PES is often the primary public labour market institution responsible for implementing labour market policy through public services. Private employment agencies have always existed in parallel. Yet they have been growing in developing countries as a result first, the rapidly changing and flexible labour markets, including International Labour Migration. And second, as a result of the increasing weaknesses of the Public Employment Services which continue to struggle with inefficiency and minimal resources. This section only focuses on Public Employment Services.
55. Although, PES mission and strategy varies from country to country, and largely depend on both national employment policies, economic, cultural and social background, their main goals are, however, defined in the ILO Employment Service Convention C.88 (1948)<sup>28</sup> as being: the recruitment and placement of workers; facilitating occupational and geographical mobility; collecting and analysing data on the labour market; cooperating in the administration of unemployment insurance; and, finally, assisting in social and economic planning. Today, and due to the evolution of the labour market, PES plays four major roles: Job-broking; development of labour market information systems; administration of labour market adjustment programmes; administration of unemployment benefits.
56. Almost all Arab countries provide public employment services and which are commonly integrated in the Ministry of Labour. These services have increasingly been used both as

<sup>26</sup> For more information see [www.hcp.ma](http://www.hcp.ma)

<sup>27</sup> These assessments conducted by Al Manar in the National Centre for Human Resources Development. <http://www.almanar.jo/AlManarWeb/Default.aspx?tabid=104>

<sup>28</sup> Up to September 2008, only six Arab countries have signed Convention C.88, namely, Algeria, Djibouti, Egypt, Iraq, Lebanon and Syria.



an instrument for government employment policies and as a labour market adjustment program designed to tackle unemployment issues. In Tunisia, for instance, ANETI (Agence Nationale pour l'Emploi et le Travail Independent), is in charge of implementing the government employment policies and the promotion of employment. Through its different offices and sub-offices, ANETI is also providing training, and actually offering services to enterprises, job seekers and young investors. These activities are provided with the support of an efficient information system which is considered as a reference in all the countries around<sup>29</sup>.

57. Often, however, many of the public employment services in the region fail to make an impact in linking job seekers with available jobs and/or providing other support services. In some countries, like Lebanon, Egypt and Jordan, they are not efficient in terms of infrastructure, staff competences and information systems, to be able to actively respond to the needs of job seekers and employers, who are therefore reluctant to use their services<sup>30</sup>. In Jordan, almost 90% of jobseekers have never used labour exchanges or counselling services . One way for improving efficiency and effectiveness is through the involvement of the social partners. In Algeria, the ANEM (Agence Nationale pour l'EMPloi) has been widening their effectiveness with the full involvement of the social partners which was a decision taken by the tripartite committee which his headed by the Prime Minister.

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<sup>29</sup> <http://www.emploi.nat.tn/>

<sup>30</sup> European Training Foundation: *Employment policy reforms in the Middle East and North Africa* (Torino 2006), pp.46

## 6. Concluding Remarks

- 58.** This paper provided an overview of the diverse issues related to labour market governance. In general, the region suffers from weak labour market governance which is a reflection of limited resources and outdated mechanisms. While there are examples of achievements, these are not sufficient, in terms of scale, for bringing the changes which are needed.
- 59.** The world of work is changing in the region and there is an urgent need for a new framework of rules and relations that defines the principles that governments, employers and workers can use to design labour market systems that incorporate commonly agreed upon standards and policies. What is evident from this review is that most of the countries of the region are facing choices on how they want to engage with the impact of the new global economy. Indeed, there are far reaching changes that necessitate adaptation in how the world of work will be organized, including new international dimensions of labour market governance.
- 60.** At the same time, there is no single approach that is appropriate for all countries. Indeed, there is a diversity of situations and characteristics among the countries of the region and each country needs to develop its own route for improving the legal, administrative and institutional framework of labour market governance in order to be better enabled to generate more and better jobs. These different routes however should all lead to a common minimum social floor of standards and rights and which is effectively delivered. This standard of fairness should be the main building block which all countries can base their institutional framework on. In conclusion, the efficient governance of the labour market today is that which successfully balances the needs for more flexible and competitive labour markets with the necessity for maintaining and creating decent jobs for both men and women.

## 7. Issues for Debate

1. In 2004, the Director- General of the International Labour Office described these challenges as: “The State has a key role to play in creating an enabling institutional framework to balance the need for flexibility for enterprises and security for workers in meeting the changing demands of a global economy ... At the heart of national policies to meet the social challenges of globalization is a dynamic strategy for managing labour market change.” To what extent are Arab countries sufficiently developing a “dynamic strategy” to cope with labour market changes? Do these strategies equally address efficiency and equity?
2. What are the main impediments for improving working conditions and rights at work in the Arab Region in terms of regulations and in terms of labour administration mechanisms?
3. How can governments succeed in balancing the needs for more flexible and competitive labour markets with the necessity for maintaining and creating decent jobs for both men and women? Should the role of official labour market institutions in managing the labour market decrease? Or should it focus on re-regulating the existing framework and improve the efficiency of the relevant institutions?
4. What are the binding constraints for effective social dialogue from the perspectives of governments, employers and workers? What are the steps which are needed to facilitate consultation and negotiation to reach a consensus on a common vision for reshaping the labour market?
5. What are the key factors needed for improving the structures of employment support such as labour market information and employment services at the national level? How can these be strengthened and contribute to regional integration and cooperation in terms of labour market data and job matching?

