

F. Addressing the gender wage gap

Broadly, differences in remuneration are linked to objective differences in the value of work performed (such as skills, working conditions, responsibilities and effort). As the present chapter demonstrates, however, the gender wage gap is also attributable to other factors, including discrimination. Although differentiated earnings are a symptom of broader issues of gender inequality in the labour market, there are nonetheless policy mechanisms that can promote remuneration equality between women and men.

1. Eliminating unequal treatment of men and women in the labour market

Clear legislative frameworks that establish a level playing field ensure that women have equal access to labour market participation and protection from all forms of direct and indirect discrimination and harassment. In addition, a sound legal framework, which prevents discrimination of workers based on gender, maternity, paternity and family responsibilities (box 5), provides a formal structure removing barriers to employment and career progression, such as restrictions on ownership, on female employment in some occupations and on working hours.

There are a few key legal protections that are crucial to women's continued employment, in particular after childbirth. These include: guaranteeing the right to return to work after leave of absence to the same or equivalent position and pay; shifting the burden of proof to employers; enacting laws to prohibit discrimination and gender-based violence in general and in relation to maternity and family responsibilities specifically; and providing gender-specific health protection at the workplace.

The guaranteed right to return to work in the same or equivalent position at the end of maternity leave is important for women's permanence and progression in paid work after childbirth. In an examination of 146 countries, the ILO found that only 38 countries have legal guarantees for a woman's right to return to work to the same or equivalent post, 26 guarantee the same post but 82 do not have any guarantees (ILO, 2014d). Judicial systems that place the burden of proof on employers regarding dismissals help to protect women who are dismissed on the basis of maternity. Similarly, legislation prohibiting discrimination on the grounds of maternity or pregnancy would cover many aspects of employment including access, recruitment, dismissal, seniority, promotion, training, changes in position, retirement and other working conditions.

Box 5

Measures to eliminate unequal treatment related to maternity and family responsibilities

Many countries have implemented measures to ensure that all workers without discrimination, including self-employed workers, are protected. For instance, in Spain, casual, seasonal and self-employed workers and students are covered by parental leave. In Azerbaijan, Brazil and Singapore, it is mandatory to provide coverage for self-employed workers for maternity cash benefits. In Canada, the Republic of Korea and the United States, for example, labour legislation guarantees the right to return to work to the same or an equivalent position paid at the same rate after maternity leave. In France, the 2014 law on equality between women and men establishes that employers cannot terminate the employment contract of a male employee during the four weeks following the birth of a child. "Sex", "pregnancy" and "family responsibilities" are explicitly cited as prohibited grounds of discrimination in the legislation of Australia, France, Italy and the Republic of Korea. The burden of proving that reasons for dismissal are unrelated to maternity rests on the employer, for instance, in the legislation of Argentina, Colombia, Germany, Mauritania, Sri Lanka and Zambia. In such countries as Austria, Chile, Guatemala and Panama, employers are obliged to ask for judicial or administrative authorization before giving notice of dismissal to a pregnant or nursing worker. In the Bolivarian Republic of Venezuela, Equatorial Guinea and Slovenia, employers need authorization from a labour inspector prior to dismissal. By 2013, 38 per cent of the 144 countries examined globally had taken steps to shift the burden of proof to the employer.

Statutory labour legislation protects pregnant and nursing workers from hazardous and unhealthy work and, in some countries, these arrangements enable employees to be temporarily reassigned or their work duties to be adjusted for medical reasons, as for example, in France, Japan and Spain. Italy, Mexico and the Russian Federation also have statutory provisions for working time arrangements facilitating the nursing and breastfeeding of infants. Guinea Bissau, the Republic of Korea, Turkey and Viet Nam provide time off with pay for prenatal medical examinations.

Source: ILO, 2014d.