

Minimum wages and wage protection in the Arab States: Ensuring a just system for national and migrant workers

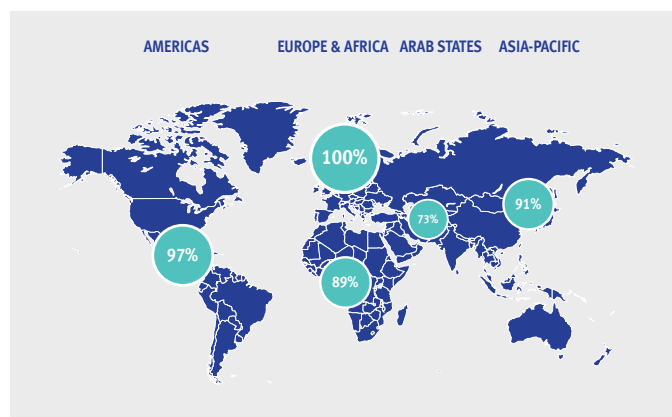
ILO Policy Advisory Committee on Fair Migration in the Middle East Note for Policymakers*

Ensuring decent wages for workers, and implementation mechanisms to eliminate delayed and non-payment of wages is a key priority for countries globally, including through the setting of a minimum wage. However, the coverage of minimum wages in the Arab States is low, and often excludes large numbers of workers. Increasingly, and particularly in the Gulf Cooperation Council (GCC) countries, governments in the Arab States are looking to develop or extend their minimum wages, and are also exploring mechanisms to ensure that workers are paid correctly and on time. This note for policymakers explores how States in the region – particularly those with a high percentage of migrant workers – can initiate a systematic, evidence-based process for setting and adjusting minimum wages, drawing on ILO standards and international good practice, whilst also improving and strengthening systems of wage protection.

1. What is the minimum wage coverage in the Arab States?

The Arab States region has the lowest coverage of minimum wages globally, with some coverage in approximately 73 per cent of countries.¹

Figure 1: The proportion of countries with a minimum wage, by region



Source: ILO 2017. *Minimum Wage Guide*.

* This document was developed as an outcome of discussions of the Policy Advisory Committee on Fair Migration in the Middle East (PAC) in May 2018. The PAC serves as a think tank and advisory forum to ILO's Regional Office for Arab States, and within that to the ILO Regional Fair Migration Project in the Middle East (FAIRWAY), to provide advice on the ILO strategy to advocate for policy change under the Fair Migration Agenda in the region. The information and opinions contained herein do not constitute an endorsement by the International Labour Office. The PAC is supported by the Swiss Agency for Development and Cooperation (SDC).

Minimum wages in the region include:

- Countries where there is a national minimum wage for all workers, which currently only applies to **Qatar** (QAR750, USD206).²
- Countries where there is a national minimum wage which only applies to nationals, including in **Oman** (OMR325, USD845).
- Countries where there is a minimum wage only in the public sector, including in **Bahrain** (BD300, USD 798), or only in the private sector, including in **Kuwait** (KD75, USD247).
- Countries where there is a different minimum wage for migrant and national workers, including in **Jordan**, where the minimum wage is JOD220 (USD310) for nationals and JOD150 (USD212) for migrant workers, except for migrant workers in the Qualified Industrial Zones (QIZ) (see footnote 6).
- Countries where there is currently no minimum wage application, including in **Yemen, United Arab Emirates (UAE)** and **Saudi Arabia**.³

Some groups – such as domestic workers – are especially likely to be excluded from minimum wages where they exist (with the exception of Kuwait, where domestic workers are covered by a minimum wage of KD60 (USD198) per month).

1 Regulation of minimum wages concerns workers employed in the formal sector. However in the Arab States region it is estimated that 68.6 per cent of employment is in the informal sector. See: ILO (2018) *Women and men in the informal economy: A statistical picture*. Third edition

2 In Lebanon, while the minimum wage legislation itself does not explicitly differentiate between nationals and migrants, in practice the official minimum wage applies to Lebanese nationals only, whereas a large proportion of migrant and refugee workers, particularly Syrians and Palestinians, earn below this minimum wage.

3 For example, while Saudi Arabia does not have a minimum wage, in order for a Saudi worker to be taken into account in the *Niqat* (Saudi employment nationalization programme) points system, he or she must receive a monthly wage of no less than SAR3,000 (USD800).



2. Who should a minimum wage cover and how should it be set?

The purpose of minimum wages is to protect workers against unduly low pay and thereby reduce inequality, including between men and women, as the latter are often overrepresented among low-paid workers.

The key principles of a minimum wage are that it should:

- **Be broad in scope** and have as few exclusions as possible. This means that all workers, both nationals and migrants, including domestic workers, should be covered by the minimum wage;⁴
- **Take into account the needs** of workers and their families, as well as economic factors;
- **Be effectively applied**, including through labour inspections, adequate sanctions, information campaigns, training activities, as well as wage protection systems;
- **Be developed through “full consultation with representative organisations of employers and workers”**, or where they do not exist with “representatives of employers and workers” (C131, Article 4); and
- **Be regularly adjusted**, taking into account changes in the costs of living and other economic conditions.

Box 1

The ILO Minimum Wage Fixing Convention, 1970 (No. 131) (C131) (which is accompanied by Recommendation No. 135)(R135), ratified by 54 countries, calls on Members to “undertake to establish a system of minimum wages which covers all groups of wage earners”. The minimum wage should cover all those whose “terms of employment are such that coverage would be appropriate” (Article 1). The ILO General Survey suggests “exclusions should be kept to a minimum (...) particularly in relation to vulnerable categories of workers such as domestic workers”.⁵

The minimum wage should take into account (i) the needs of workers and their families (taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups); and (ii) economic factors (including the requirements of economic development, levels of productivity, and the desirability of attaining and maintaining a high level of employment).

4 This principle is also confirmed by the ILO Migration for Employment Convention (Revised), 1949 (No. 97) (Article 6(1)(a)(i)), the ILO Multilateral Framework on Labour Migration 2006 (which confirms that all international labour standards apply to migrant workers, unless stated otherwise, and makes explicit reference to C131); and in international human rights law, including the International Covenant on Economic, Social and Cultural Rights, Article 7(a), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 25(1): “migrant workers should enjoy treatment not less favourable than that which applies to nationals in respect of remuneration”.

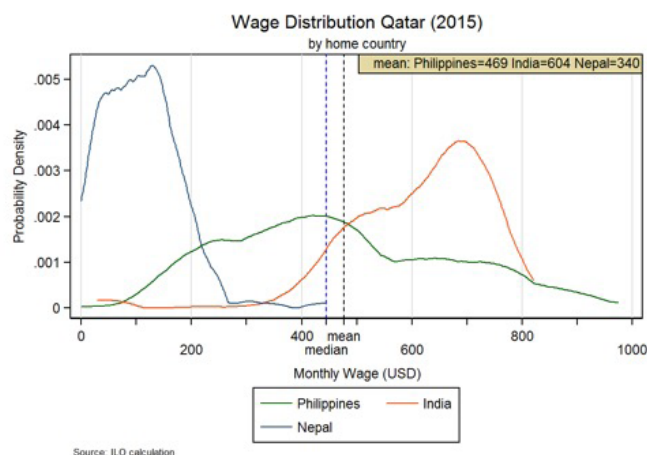
5 ILO, *Minimum wage systems*, General Survey of the reports on C131 and R135, Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 103rd Session, 2014.

6 ILO Minimum wage policy guide, Chapter 5: Setting and adjusting minimum wage levels, 5.3 The needs of workers and their families.

3. What are the key considerations when developing a minimum wage in the Arab States?

Minimum wage setting must be evidence-based however, one of the challenges in the Arab States is **access to data**. While key sources of data include labour force surveys, household surveys, establishment surveys, and wage distribution data, these may not give concrete information on all types of workers, particularly migrant workers.

Minimum wages in much of the region are set through de-facto nationality-based wage scales – rather than being set based on prevailing wages (in the country of destination) and on objective valid criteria such as skills, education or work experience. This represents a concern surrounding the principle of equal pay for work of equal value. It also creates a difficulty in knowing where to set the minimum wage, given the large diversity in wages currently set by nationality (as demonstrated in the figure below).



Source: ILO-World Bank KNOMAD-Global Knowledge Partnership on Migration and Development surveys (interviews with 1,122 workers).

Additionally, it should be recognized that setting a minimum standard which considers the needs of workers and their families – when in the case of migrant workers these needs are in practice at least partly related to the cost of living in the country of origin – should be carefully thought through. The ILO notes that a number of factors, including household size, number of workers per household, and minimum living standards for families, should be considered.⁶

Box 2

*The ILO Protection of Wages Convention, 1949 (No. 95) allows “for the **partial payment of wages in the form of allowances in-kind** in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned” (Article 4 (1)). In such cases, it calls however for measures to ensure that the allowances are appropriate for the personal use and benefit of the worker and their family; and that the value attributed to such allowances is fair and reasonable.*

Another consideration is the **prevalence of in-kind payments** among certain sectors dominated by migrant workers, including domestic work, construction and garment manufacturing. It is common for migrant workers in the Arab States region to live in accommodation provided by their employer, and to have food, clothing, toiletries and transport costs covered. ILO Convention No. 95 provides relevant guidance on this matter, allowing for the partial payment of in-kind allowances when the value of such allowances is fair and reasonable. Most countries do not allow in-kind payments to exceed 30 per cent of the total remuneration.⁷

There are also concerns that the value of in-kind payments may be overestimated, and may constitute a disproportionate amount of the total wage, and that workers may not be able to opt out of in-kind payments.

Furthermore, some argue that given these in-kind contributions, migrant workers should not have the same minimum wage as nationals.⁸

The ILO Convention No. 189 on Decent Work for Domestic Workers allows for a limited proportion of in-kind payments that are not less favourable than those generally applicable to other categories of workers. ILO Convention No. 189 also goes further than ILO Convention No. 95, allowing for payment in-kind “...provided that such payments in-kind are agreed to by the worker...” (Article 12).

Recommendation No. 201 that accompanies the Domestic Workers Convention provides further guidance on calculating in-kind remuneration, and notes that “no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker” and that “items directly related to the performance of domestic work” are not considered as payment in-kind and their cost is not deducted from the remuneration of the domestic worker (Articles 14(d) and 14(e)).

4. How can correct payment of wages be ensured?

A Wage Protection Systems (WPS) is an electronic salary transfer system that requires employers to pay workers' wages via banks, currency exchange centres, or financial institutions. The WPS was first developed in GCC countries and have been operating since:

- **2009 in the United Arab Emirates (upgraded in 2016);**
- **2013 in Saudi Arabia;**
- **2014 in Oman;**
- **2015 in Qatar;**
- **2015 in Kuwait; and**

In 2018, **Bahrain** announced that its WPS will be operational in 2019.

However, critics of WPS note that these systems serve more as a wage information or notification system, than a protection system, largely due to a lack of effective enforcement in cases of breach.⁹

The WPS do not currently address wage manipulation (miscalculation of overtime, end of service gratuity payment, or annual leave payments); or address situations where payments are withdrawn from the Automatic Teller Machine (ATM) by the employer, and a lesser amount paid in cash to the worker.

Furthermore, the current systems do not protect workers against employers' inability to pay wages, for example as a result of bankruptcy.

Box 3

***Can technology prevent non-payment of wages?** Fingerprint or retina scan mechanisms at ATMs can serve to ensure that only workers are accessing the wages in their accounts. For example, in late 2016, the Qatar National Bank introduced iris-scanning ATMs, while the Commercial Bank of Qatar introduced “finger vein-scanning terminals”. While some banks in most GCC countries have applied or are considering applying biometric access to accounts, including voice recognition, it is still unclear to what extent this has been, or will be, applied to low-income worker pay card ATMs.*

(Source: Ray Jureidini, Wage Protection Systems and Programmes in the GCC, Research Report No. 2017/01, GLMM).

⁷ ILO Minimum Wage Policy Guide, Chapter 1: What is a minimum wage, 1.6: Payment in-kind

⁸ For example in Jordan, the minimum wage for Jordanians is JD220 (USD310) per month, but for migrant workers in the garment sector (situated within in the QIZ), the wage is only JD125 (USD178) based on a collective bargaining agreement. The collective bargaining agreement references a study that apparently values the in-kind proportion of migrant workers' wages such that their total wages (in-kind plus cash) equal the cash wages paid to Jordanian workers in both 2017 and 2018 (see ILO and IFC (2018) Annual Report 2018: An Industry and Compliance Review, Jordan).

⁹ For more information see: Ray Jureidini, Wage Protection Systems and Programmes in the GCC, Research Report No. 01/2017, GLMM.

5. How can the WPS be more user-friendly to workers?

There is a need for further investigation into workers' perspectives and use of the WPS. In particular, it is not clear what kind of relationship banks have with workers and whether the worker or employer is considered the actual 'client'. As account holders, workers should be entitled to a clear list of services and provided with awareness-raising and capacity building activities in order to increase their access to the services. Financial institutions should research how the right types of services can be provided to workers.

Additionally, there needs to be some degree of freedom of what type of banking facility is used. Anecdotal evidence

suggests that where available, migrant workers prefer to use the services of currency exchange centres, which provide additional relevant services such as translation, competitive remittance services and international phone calling/calling cards. Workers housed in labour camps may only be able to access banking services on their day off, highlighting the need for mobile and internet banking services.

The issue of financial literacy and financial inclusion remains as many migrant workers continue to prefer to use cash and systems of informal transactions. Financial literacy (including savings and investment) can be incorporated into pre-departure and post-arrival orientation training.

KEY CONSIDERATIONS FOR THE ARAB STATES

Setting minimum wages

1. ***It is critical to understand the needs of workers when setting a minimum wage.*** Where there are no employer or worker organizations who can be consulted, direct communication with workers should be facilitated, including through telecommunications and social media. Working with and through trusted community groups, trade unions and civil society organizations can also be an effective means of generating important data from workers. States should also consider a review of statistical instruments (including labour force surveys) to determine how migrant workers can be included.
2. ***Economic factors must be considered when setting a minimum wage (through engagement with a broad range of stakeholders).*** This means examining the impact of a minimum wage not just on employers but also on the economy in general, including the potentially positive effects of minimum wages on consumption, as well as on the welfare of consumers of goods and services produced and provided by minimum wage workers (for example, in the care sector, this might include elderly/people with disabilities who rely on care). The economic analysis of

minimum wages should be combined with a discussion of how other policies can be used to achieve social justice objectives, including employment policies, social transfers and creating an enabling environment for sustainable enterprises and increased productivity.

3. ***Avoid policies that set a minimum wage for workers based on their nationality.*** Minimum wages can be set objectively by different skill levels and occupations, recognizing the experience and skills of a worker independent of his/her nationality. While the living costs in different countries of origin may differ, this should not be a reason for setting differentiated minimum wages, particularly as it should not be assumed that workers will always remit all money to their home country.
4. ***In-kind contributions which are deducted from a worker's wage must be carefully reviewed.*** Policymakers must ensure that the in-kind payments are appropriate for the personal use and benefit of the worker and their family; that they are only applied with the worker's agreement; and that the value attributed to such allowances is fair and reasonable.

Ensuring workers are paid correctly and on time

- 1. WPS should be strengthened through better integration of workers' contractual information, including basic wage and allowances/deductions.*** States may also consider how to connect the WPS to electronic documentation of working hours (including calculation of overtime). This should be combined with a mandatory requirement that employers register payslips with their WPS provider (bank) to ensure that workers can access their payslip at any time. This document should include the number of hours worked (including overtime) and any deductions.
- 2. Strengthen labour inspection departments' mandate and ability to monitor employers' correct and timely payment of workers' wages.*** This includes inspecting whether workers are issued with their ATM cards, and monitoring payment of wages through information sharing with the WPS.
- 3. Enforcement can be improved through worker access to complaints mechanisms,*** such as hotlines or mobile applications that can detect discrepancies in wage payment swiftly and accurately. While technology can help to ensure that employers are not accessing the account on behalf of workers (see box 3), there could also be simple detection mechanisms to flag cases where the worker does not withdraw or transfer the salary at all – as this could suggest a case of trafficking/forced labour.
- 4. Mechanisms to protect workers' wages in cases of company inability to pay/bankruptcy may be introduced,*** such as the Wage Guarantee System in the UAE and the Workers' Support and Insurance Fund in Qatar.
- 5. The WPS must be extended to cover all workers, including migrant domestic workers who are currently explicitly excluded.*** This requires engagement with banks to ensure that accounts can be created, and taking steps, including accountability measures, to ensure employers do not keep workers' ATM cards or prohibit workers from accessing ATMs themselves.
- 6. There should be efforts to promote financial literacy and inclusion of migrant workers, and to ensure links between wage protection and remittance sending services.*** Further research is required to better understand workers' familiarity with, and need for, financial services, including automatic remittance-sending services connected to the WPS. The role of new technology applications and mobile services should be explored.
- 7. There should be efforts to ensure that banks or financial service providers are tailoring their services to workers as the clients and not only to employers.*** There should be a clear list of services to be provided to the worker as an account holder and some degree of awareness raising and capacity building to use the services. Financial institutions should research workers' needs for mobile/internet banking services and determine how these can be provided. There should also be some degree of freedom to decide as to what type of banking facility is used by worker, such as the services of exchange houses.
- 8. Other modalities such as pre-paid salary cards should also be reviewed*** to see what monitoring mechanisms are in place and how exploitation can be detected.