



**ANALYSIS OF THE (DRAFT)
LAW ON LABOUR THROUGH
A FEMINIST PERSPECTIVE
IN KOSOVO**

NOVEMBER 2021



Qendra Kosovare për Studime Gjinore
Kosovar Gender Studies Center

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	5
Introduction: Theoretical Considerations and Contextualising Kosovo's (Draft) Law on Labour	7
Research Scope and Methods: Thematic Research.....	13
Situational Analysis: Women's position in the labour market in Kosovo.....	15
National Legislative Framework, International Conventions and EU Directives	18
Analysing the (Draft) Law on Labour from a Feminist Perspective ...	23
Findings: Women's Testimonies on Their Everyday Realities Resulting from the Law	29
An Intersectional Approach to the Labour Market and its Legislature	39
Relevant Institutions	43
Model Proposal and Recommendations Informing the (Draft) Law on Labour.....	48

ACKNOWLEDGMENT

“Analysis of the (Draft) Law on Labour Through a Feminist Perspective in Kosovo?” is a thematic research report of the Kosovar Gender Studies Center (KGSC) published with the support of Kvinna till Kvinna project “EU Accession for whom? Women's rights and participation in the Western Balkans 2021-2026 Programme”. “This is a project implemented with the financial support of the Swedish International Development Cooperation Agency (Sida) and under implementation of Kvinna till Kvinna program for the Western Balkans– with overall intended impact of the proposed programme that women's rights and equal participation in decision making in Western Balkans are fully respected. KGSC would like to thank all those who provided help and invaluable information and data for this document.

Researcher: Nerina Guri

Editor: Dafina Prekazi

Kosovar Gender Studies Center (KGSC) www.kgscenter.net KGSC has been contributing to gender mainstreaming since 2002 and continuously makes efforts to achieve gender equality in Kosovo. It has been pioneering changes to the discriminatory system, social norms, and double standards, and is very active in monitoring public institutions. KGSC mission is to integrate gender-sensitive analysis, programs, and policies in all sectors of Kosovar society by increasing gender awareness and focus on gender issues, developing gender studies and ensuring the inclusion of gender-sensitive policies through research, policy development, advocacy, and lobbying.

Disclaimer

This material is completely or partly financed by the Swedish International Development Cooperation Agency (Sida) and the Kvinna till Kvinna Foundation. Sida and Kvinna till Kvinna do not necessarily agree with the opinions expressed. The author alone is responsible for the content.

Copyright ©

Kosovar Gender Studies Centre (KGSC), November 2021. All rights reserved. No part of this publication may be reproduced, stored in or introduced into a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior permission of KGSC

EXECUTIVE SUMMARY

This situational paper captures the effect that the current Law on Labour has on women's position in the labour market and beyond. Patterns from interviews with diverse women, employers in the private and public sector, (women) civil society organisations, and institutions, show that there is a link between violations of current maternity leave provisions and the situation of gender inequality in the labour market. Main findings include:

- Violations of labour rights varied from working informally without a contract, lack of social benefits and pension contributions, to working on weekends, for longer hours without pay, leave policies, breastfeeding breaks, annual leave, termination of employment, unpaid statutory leaves, neglect of gender and non-majority ethnicity communities' quotas, in both public and private sector, as well as in organisations.
- Women in the public sector said they had to return to work because they could not afford the low level of payments for maternity leave in times when the household expenses increased.
- Women in the private sector stated that they were forced to interrupt their maternity leave in order to maintain their jobs, in different regions.
- Violations regarding breastfeeding breaks varied, where women were allowed to take a half to one hour per day breastfeeding breaks whereas some said they were not allowed to take any breaks for breastfeeding, in public and private sector as well as ICSOs.
- Having no private room or place to use breastfeeding pumps in their workplace were also raised as an issue, putting workers' health and reproductive health rights in jeopardy.
- Businesses discriminate in hiring and terminate or do not extend contracts for women planning to start a family and they do not always hire substitutions for workers in their maternity leaves, adding to women's workload and forcing them to return to work before end of leave.
- Women reported private childcare centres being too expensive, particularly in Prishtina region, whereas public childcare centres have less availability, flexibility in hours and acceptance when children are sick. Recurring nepotism in registering or falsely being entitled to a place as a war veteran family, were reported as problematic by women for public childcare centres.

- Patterns of tiredness and impossibility to keep a healthy life-work balance was a recurring theme amongst women on or returning from leave.
 - Introducing paternity and parental leave were reported as solutions by women to the problem of the motherhood time-tax and discrimination in the labour market.
 - The Law on Labour provision regulating two additional paid days as part of annual leave for people with disabilities is not being implemented.
 - Violations such as discrimination in hiring for non-majority ethnic communities and termination of employment for LGBTQIA+ communities when their sexual orientation or gender identity is revealed, were reported by diverse women and organisations.
 - Women living in rural areas struggle with means of transportation and childcare accessibility.
 - The Labour Inspectorate suffering with lack of capacities is jeopardising the monitoring and sanctioning of discrimination cases and the protection of workers' rights, particularly with respect to maternity leave provisions.
- The Law falls short in protecting women on maternity leave from expiry of short contracts.
 - Women interviewees suggested lack of trust that Labour Inspectorate or Labour Unions really do something regarding their violated rights.
 - No data is generated from any institutional body on how many women took up maternity leave in the private or public sector, as the electronic Health Information System and Labour Inspectorate database system are not established and functional yet.
 - Not all EU Directives have been transposed to the Draft Law on Labour yet, leaving it still a “bearer of gender” and “reinforcer of gender inequality.”

INTRODUCTION:

Theoretical Considerations and Contextualising Kosovo's (Draft) Law on Labour

Women's participation in the labour market remains excessively low in Kosovo. The employment rate for women was only 14.1% in 2020, whereas the inactivity rate was 79.2%.¹ Many factors, maintained by the legislature in power, contribute to this worrying position of women in the labour market. The unequal gendered division of unpaid care work results in unequal relations, precarious employment when women participate in the labour market, and feminization of poverty² over the life course. Therefore, this positional paper elaborates the effect of the Law on Labour from a feminist perspective, aiming to inform the Draft Law on Labour in Kosovo at the eve of efforts to amend it.

After many failed efforts from various governments in Kosovo to amend and finalise the Draft Law on Labour, with requests since 2013 from the private sector to amend particularly the maternity leave provisions, and later with other related actors' requests, including women's rights organisations proposals,³ new opportunities arise for women's rights organisations. Kosovar Gender Studies Center (KGSC) conducted this thematic research on the impact of the (Draft) Law on Labour on women's position in the labour market, ten years after similar research was conducted in 2011,⁴ to inform recommendations to the

1 Kosovo Agency of Statistics (2021) Labour Force Survey in Kosovo, at: <https://ask.rks-gov.net/media/6259/labour-force-2020.pdf>.

2 "Because women experience two levels of resource inequality (outside and within the household) and because capitalism increases female subordination (outside and within the household), poverty is disproportionately felt by the world's women." Smith, Collins, Hopkins, and Muhammad (1988) as cited in Dunaway (2001) The Double Register of History: Situating the Forgotten Woman and Her Household in Capitalist Commodity Chains, *Journal of World-Systems Research*, VII, 1, spring 2001, pg. 18-20.

3 Banjska, I., Rrahmani, G., Farnsworth, N. (2016) Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State, for Kosovo Women's Network, at: <https://womensnetwork.org/wp-content/uploads/2018/10/20160504154201373.pdf>.

4 Vunijq, L., Halimi, S., Demolli, L. (2011) Impact of the Labor Law on Women in Kosovo, Kosovar Center for Gender Studies, at: <http://kgscenter.net/site/assets/files/1465/6>

Government of Kosovo during the amending process. The theoretical framework of this positional paper aims to change the paradigm of the traditional scope of the labour law and tries to go beyond it by using more transformative concepts such as a broader definition of what counts as labour, including the concept of social reproduction⁵, as well as recognising labour markets as gendered institutions.⁶

“Every woman is a working woman” are the prominent words of Federici, a feminist economist. Following this premise, feminist activists and academics advocated for the previous government of Kosovo not to separate in another special law the maternity and parental leave provisions from the already written Draft Law on Labour, but rather to include them together with other labour rights. This has been done in the latest Draft Law, however many issues still remain in the jurisdictional realm, from theoretical considerations to practical issues, regarding women's labour rights.

The work of feminist academic Fudge includes feminist elaborations of the labour law as well as precarious work relations and employment. According to Fudge, “androcentric views of work and contribution [a]re entrenched in work and social security legislation.”⁷ This in the sense that women are crowded out in jobs that allow for flexibility as their social roles are constructed to be reduced to biological ones, already determined by the existent norms, not only in Kosovo but in many cultures, societies and temporalities. Hence, women tend to be unemployed more, working in the informal sector more, being less active and having higher representation in precarious, low paid jobs when they are employed at all. Furthermore, in the context of capitalistic labour relations in patriarchal structures, women are exploited in the

[impact_of_the_labor_law_on_women_in_kosovo.pdf](#).

5 Fudge, J. (2014) Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction, *Fem Leg Stud Vol. 22*:1–23, doi: 10.1007/s10691-014-9256-2.

6 Elson, D. (1999) Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues, *World Development Vol. 27, No. 3*, pp. 611–627, Elsevier Science Ltd.

7 Elson, D. (1999) Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues, *World Development Vol. 27, No. 3*, pp. 611–627, Elsevier Science Ltd, pg. 10.

labour market as workers and in households as “housewives.” As per Mies, “the social definition of women as housewives serves mainly the purpose of obscuring the true production relations and to consolidate their exploitation, ideologically and politically.”⁸ Additionally, “because it accumulates greater profits off the backs of women, the world-system does not seek to transform females into wage laborers. The system profits at maximal levels by semiproletarianizing women and by shifting to women and households most of the costs of commodity production.”⁹ In the labour market, their labour's surplus value is exploited from them by the capital while at the same time the unequal division of labour in the household remains their burden, as dictated by patriarchal structures.

Linking paid work in labour markets and unequal division of unpaid work in the households, this positional paper uses Elson's work on labour markets as gendered institutions, and Fudge's concept of social reproduction. This, with the aim to analyse the current Law on Labour in Kosovo in contrast to the Draft Law to assess the latter's potential in addressing gender inequalities within and beyond the labour market, with the inclusion of parental leave provisions for the first time in Kosovo. The introduction and inclusion of the concept and practice of parental leave should be seen as a disturbance of the power dynamics in the old, yet prevalent and pertaining male-breadwinner, female-caretaker model legitimised by traditional labour laws. Such a disturbance aims to improve the living situation for diverse women.

Elson defines labour markets as “gendered institutions operating at the intersection of the productive and reproductive economies,” because they are “structured by practices, perceptions, norms and networks which are ‘bearers of gender.’”¹⁰ She elaborates that labour markets are not purely neutral institutions where economic

8 Mies (1981) as cited in Dunaway (2001) *The Double Register of History: Situating the Forgotten Woman and Her Household in Capitalist Commodity Chains*, *Journal of World-Systems Research*, VII, 1, spring 2001, pg. 22.

9 Hopkins and Wallerstein (1987); Shiva (1988), as cited in *Ibid*.

10 Elson, D. (1999) *Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues*, *World Development* Vol. 27, No. 3, pp. 611-627, Elsevier Science Ltd, pg. 611.

agents interact with each other on behalf of demand and supply, as assumed by neoclassical economics. Therefore, labour markets fail to recognise the contribution of the reproductive economy which includes caring activities for the past, current and future labour force and human capital, daily and intergenerationally. These activities are not counted as “benefits” in the labour market, but rather as “costs,” for employers.¹¹

Further, as she argues, it is said that labour markets accommodate women to combine between paid and unpaid work, through flexible jobs regarding time and location. In the context of Kosovo, it has been a practice for women to be let go early from their paid job on the eve of national holidays like Eid Mubarak, to go and attend to household chores. Indeed, as Elson argues, the labour market is rather “designed to allow the productive economy access to workers whose entry into the labor market is constrained by domestic responsibilities than to give weight to the contribution that women's *unpaid* work makes to the productive economy.” Hence, women are treated in the labour market with the assumption that someone else, either their father, husband or son, will take care of them and support them during the life-course – in this way making the labour markets not just “bearers of gender” but also “reinforcers of gender inequality.”¹²

On the other hand, the social reproduction concept includes and “refers to the social processes and labour that go into the daily and generational maintenance of the population.”¹³ The term of labour is interpreted as a “fictive commodity,”¹⁴ in the sense that it cannot be separated from the one who creates it, the worker. From a gender perspective, it is treated as a commodity from the market and other institutions, however it is intrinsic and embodied in the workers – who are given birth, cared for, fed and tended by women in the unit of the

¹¹ Ibid.

¹² Elson, D. (1999) Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues, World Development Vol. 27, No. 3, pp. 611-627, Elsevier Science Ltd, pg. 613.

¹³ Picchio (1992) as cited in, Fudge, J. (2014), pg. 613.

¹⁴ Karl Marx, Karl Polanyi, as cited in, Fudge, J. (2014) and Fraser, N. (2013) Fortunes of Feminism: From State-Managed Capitalism to Neoliberal Crisis. London; New York: Verso, 2013. 248 pp.

household, somewhere else from the market.¹⁵ As Fudge writes, labour is not created by the market, but rather households are where the quantity and quality of labour is created, impacted by state policies and laws. The market has some degree of influencing family size living conditions, however it does not influence the gendered power relations and composition within the households.¹⁶

The current Law on Labour in Kosovo does not take into account the social reproduction concept in understanding labour relations, given that its leave provisions are regulated with six first months with 70% basic income compensated from the employer, three consecutive months with 50% of the average income compensated from the government, and three additional months that are unpaid, entitled to the mother,¹⁷ and only two to three days paid leave and additional two weeks optional unpaid leave entitled for fathers.¹⁸ This can be interpreted as the main burden of the leave being put into the private sector, which directly impacts low hiring and promotion of women, as well as the occurrence of gender-based discrimination. The leave as per the current Law, mainly consists of maternity leave and only 5% in length can be used by fathers. On Fudge's trajectory, institutional regulations and legislations are shaped by power relations at a certain space and temporality:

"the specific form that regulation takes at a specific place in time depends on the social, political, and cultural context as well as the balance of power between men, women, workers, employers, and different segments in the labour market."¹⁹

15 Ibid.

16 Ibid.

17 Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2735>.

18 As per Kosovo Women's Network (KWN) report on gender-based discrimination and labour in Kosovo, sometimes the law states fathers can take two days leave whereas sometimes three days leave, paid by the employer, on the occasion of birth of the child. Ibid, Article 50.2 and Article 39, as cited in Banjska et. al. (2019) Gender-Based Discrimination and Labour in Kosovo, Kosovo Women's Network, pg. 13, at: https://womensnetwork.org/wp-content/uploads/2019/05/GBD-Labour-Kosovo_ISBN-978-9951-737-31-9_FINAL.pdf.

19 Fudge, J. (2014) Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction, *Fem Leg Stud* Vol. 22:1–23, doi: 10.1007/s10691-014-9256-2, pg. 10.

In this sense, the fixed gender roles have been incorporated into the jurisdictional realm, like in any other institutions, and over time have become “to be seen as natural and inevitable, rather than constructed and contested, and they are used to make sense of our social world.”²⁰ Fudge argues for the social reproduction inclusion in the jurisdictional realm not as an addition to the previous law(s) on Labour, contextualised for Kosovo, which as per above, is temporarily drafted based on spatial, political and cultural work arrangements. Rather, including the concept of social reproduction would require the change of the whole paradigm of the constructed labour law boundaries, “in order to cultivate a [feminist] critical perspective on the relationship between “women’s work” and the scope of labour law.”²¹

As per Fudge, two main conceptual changes in reforms would include: what is defined as working time norms would be based on the assumption that not just women but all workers do domestic labour, hence women “would no longer be expected to shoulder the economic burden of unpaid care work.”²² Secondly, by recognising that unpaid care work is as valuable as paid work, maternity and parental leave benefits given to workers would be given to the equivalent of the worker’s wage. These reforms, as she states, might be utopian, however they are a precondition for the change in paradigm of the division of domestic labour moving from the individual to the collective. In this positional paper, Fudge’s conceptual changes are put in the context of Kosovo to lay the grounds for the relevance of addressing the gendered division of unpaid care work and its implications in the labour market by changing the paradigm of traditional labour law(s) to more transformative ones. This is however limited and applied to leave provisions only, as the addressing for the care work done by women in the world amounting to trillions,²³ would require significant changes in various institutions and not just in the juridical realm.

20 Ibid, pg. 19.

21 Ibid.

22 Ibid, pg. 20.

23 OXFAM (2020) Time to Care: Unpaid and underpaid care work and the global inequality crisis, at: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620928/bp-time-to-care-inequality-200120-summ-en.pdf>.

RESEARCH SCOPE AND METHODS: THEMATIC RESEARCH

This positional paper uses thematic research to answer its research question on the effect of the (Draft) Law on Labour in women's situation in the labour market in Kosovo. Thematic research includes semi-structured in-depth interviews, coding and analysing repetitive patterns of answers. The aim of the methods is not to be representative for the population in Kosovo as happens with quantitative studies, but rather to investigate and explore unique experiences to fill existing gaps and provide life history evidence and testimonies on the complexity of realities of relations regulated by the Law on Labour, beyond the quantitative findings elaborated in the next section. Semi-structured interviews were conducted during July and August, with actors of interest such as: employed and unemployed women in the public and private sector in main regions of Kosovo, self-employed, as well as employed in (international) civil society organisations (ICSOs); employers, in the private, public sectors and civil society organisations in main regions of Kosovo; and, related relevant institutions²⁴ with responsibilities regarding legislature drafting and implementation monitoring, such as the Ministry of Finance, Labour and Transfers, the Labour Inspectorate, the Union of Independent Trade Unions of Kosovo (BSPK), Women's Network operating within the Union of Independent Trade Unions of Kosovo, the Independent Trade Union of Private Sector, and the Ombudsperson Institution.

The sample of interviewees is roughly reflective of the regional and sector proportion of women's employment, as per Riinvest's representative study,²⁵ with a final sample of N=44 interviewees reached, including institutions, given the research scope of methods. An intersectional approach was used to include women from non-majority ethnic communities and women with disabilities. In this line,

²⁴ The sample size of the institutions is not representative, as it is based on the responding institutions during the time of the research, despite several emails and other means of reaching efforts were unsuccessful for Agency of Gender Equality, Agency for Registration of Businesses of Kosovo as part of the Ministry of Trade and Industry.

²⁵ Mehmeti, I., Dobranja, D., Hashani, A. (2017) Women in the Workforce: An Analysis of the Workforce Conditions for Women in Kosovo, Riinvest Institute.

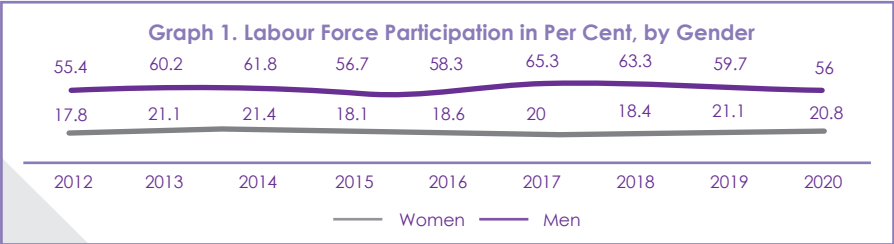
interviews were conducted with CSOs working to protect and promote LGBTQIA+ rights and women in rural areas. Single, adopting, as well as women who had experienced miscarriages were also interviewed to add to the complexity and variety of the lived experiences, where the law might fail short to regulate relations according to their needs. Currently unemployed women were also interviewed trying to shed some light into the time tax for caring for children or motherhood penalty deriving from the current Labour Law, with the main burden falling to the private sector allowing for gender-based discrimination and not adequate implementation of the Law, as well as only foreseeing and including maternity leave based on perceived and socially constructed gender norms. Additionally, less employers were interviewed in the public sector and in (international) civil society organisations, given the larger proportion of women employed in the private sector.²⁶

With respect to methods used, the findings deriving from input and contribution from interviews in no way should be interpreted as representative and exhaustive, but rather as aiming to analyse unique and in-depth patterns in interviewees' responses, which is the scope of thematic research methods. A rapid review is also conducted of Kosovo's legal framework as well as international conventions and EU Directives, applicable to Kosovo. Findings from interviews inform recommendations from a feminist perspective to the (Draft) Law on Labour. Further research can build upon this one, and use mixed methods, including quantitative and a larger sample size after the new law is drafted, approved and implemented.

²⁶ Ibid.

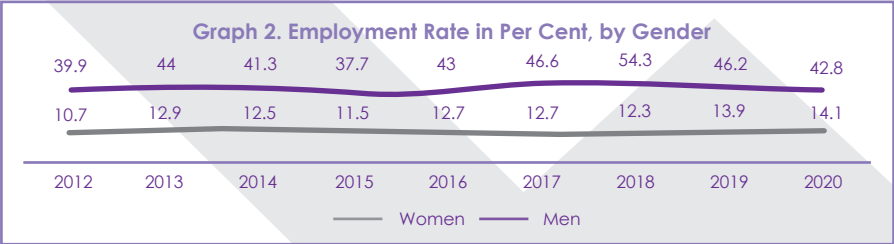
SITUATIONAL ANALYSIS: WOMEN'S POSITION IN THE LABOUR MARKET IN KOSOVO

Women's labour force participation has had a worryingly slow progress throughout the years in Kosovo. The gender gap difference in labour force participation has decreased only in 2020 as Graph 1 illustrates, when men's participation has decreased, because of COVID-19 pandemic, and not because women's participation has improved from 2019.



KAS, Labour Force Surveys.

Employment rate also only increased 3.4 percentage points in eight years, as per Graph 2. This slight increase could be attributed to the work of women's rights organisations and introduced legislation, as well as advocacy furthering gender equality.

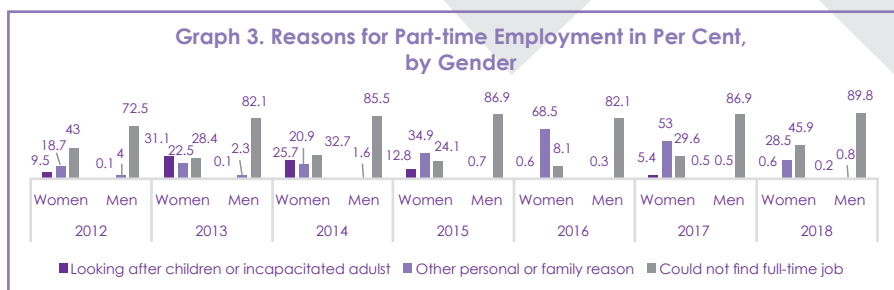


KAS, Labour Force Surveys.

Women tend to state doing care work (looking after children or incapacitated adults, other personal or family reasons) as second and third reason for part time employment more than men, the first one being not finding full time jobs for both women and men, as Graph 3

illustrates. The representative study from Riinvest Institute confirms and contradicts some of these findings, where main barriers for women looking for jobs were no appropriate jobs, time tax from “household obligations”, and no part time opportunities.²⁷ Women having children also contributes to not being able to seek for employment.²⁸

Women tend to be prone to flexible work conditions more due to the social norms, enforced legislation, particularly maternity leave provisions, and tradition, altogether maintaining the male-breadwinner, female-caregiver model in Kosovo. They tend to work fewer hours than men in the labour market even when they are employed.²⁹ They were the main source of income for their families in 26% of cases of civil union, whereas men were in 62% of these cases.³⁰



ASK, Labour Force Survey, 2020.

With regard to private versus public sector, Riinvest Institute report shows that wages for women differ from 329 Euros to 443 Euros on average monthly, respectively, as well as there is more belief in the public sector from women that they are paid equally to men (62% and 78%). Furthermore, above 40% of women in the public

27 Mehmeti, I., Dobranja, D., Hashani, A. (2017) Women in the Workforce: An Analysis of the Workforce Conditions for Women in Kosovo, Riinvest Institute, pg. 34.

28 Farnsworth, N., Berisha, A., Browne, E., Guri, N., Kastrati, D., Rrahmani, G. (2016) Who Cares? Demand, Supply, and Options for Expanding Childcare Availability in Kosovo, at: <https://womensnetwork.org/wp-content/uploads/2018/10/20161103153827186.pdf>.

29 Kosovo Agency of Statistics (2021) Labour Force Survey, 2020.

30 Mehmeti, I., Dobranja, D., Hashani, A. (2017) Women in the Workforce: An Analysis of the Workforce Conditions for Women in Kosovo, Riinvest Institute, pg.34.

sector compared to 53% in the private sector stated that they have encountered obstacles in their workplace.³¹

With respect to prevalence of gender-based discrimination and institutional response in Kosovo, Kosovo Women's Network research on antidiscrimination observes that institutions do not have systems in place to generate data on the prevalence of gender based discrimination, however there is evidence it happens more in "hiring, promotion, maternity leave and sexual harassment at work," of women in the private sector, with low income and aged 40-49, more.³² The findings also include that relevant institutions such as police and prosecutors possess knowledge on legislation, however courts did not, as well as they lacked practical experience.³³ Ombudsperson Institute also had knowledge on the law, however they had assisted a few cases, whereas labour unions did not have knowledge on what gender based discrimination is; civil society organisations helped directly with a few cases, but not many.³⁴

In a report following the effect of Law on Labour in women's position in the labour market, ten years ago when the Law was adopted, KGSC found: women might get their contracts terminated if they take the full maternity leave; women's hiring and promotion will be impacted from pre-and-post pregnancy and maternity leave; there is age and gender discrimination in short term contracts, hiring, promotion, maternity leave, benefits and contributions; there is disharmony between Law on Labour and Law on Civil Service of Kosovo; and, the Law on Labour implementation should be assessed and monitored properly after a few years from its adoption.³⁵ This positional paper aims also to fill these gaps.

31 Ibid, pg. 34.

32 Banjska, I., Ryan, J.J. D., Farnsworth, N., Demiri, L., Sijarina, L., Tërshani, A. (2019) Gender-based Discrimination and Labour in Kosovo, for the Kosovo Women's Network, p. 5.

33 Ibid.

34 Ibid.

35 Vuniqi, L., Halimi, S., Demolli, L. (2011) Impact of the Labor Law on Women in Kosovo, KGSC.

NATIONAL LEGISLATIVE FRAMEWORK, INTERNATIONAL CONVENTIONS AND EU DIRECTIVES

Kosovo regulates labour relations with Law No. 03/L-212 on Labour, Law No. 05/L-023 on the Protection of Breastfeeding, Law No. 03/L-149 on the Civil Service of the Republic of Kosovo abolished partially by Law No. 06/L-114 on Public Officials, and secondary legislation.³⁶ Gender equality and antidiscrimination in the labour market are ensured through the Law on Gender Equality and Law on Protection from Discrimination. As per the Constitution, relevant International agreements and instruments applicable to Kosovo include: Universal Declaration of Human Rights, European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, Council of Europe Framework Convention for the Protection of National Minorities, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),³⁷ and Council of Europe Convention on preventing and combating violence against women and domestic violence.

36 Administrative Instruction (MLSW) No. 01/2018 for Regulation of Administrative Procedures the Compensation for Maternity Leave Paid by the Government; Administrative Instruction No. 04/2015 for Amendment and Supplement of Administrative Instruction No. 07/2014 for Regulation of Administrative Procedures of Compensation for Maternity Leave Paid from Government; Administrative Instruction No. 07/2014 for Regulation of Administrative Procedures the Compensation for Maternity Leave Paid by the Government; Administrative Instruction No. 15/2011 on Amended and Modified Administrative Instruction No. 05/2011 for Regulation Procedure for Financial Payment for Maternity Leave; Administrative Instruction No. 05/2011 for Regulation and Definition of the Administrative Procedures for Financial Payment for Maternity Leave.

37 Additionally, the list includes International Covenant on Civil and Political Rights and its Protocols Convention on the Rights of the Child, Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. Official Gazette of the Republic of Kosovo (2008) Constitution of the Republic of Kosovo, at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>, and, (2020) Amendment of the Kosovo Republic Constitution, at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=31730>

Article 53 of the Constitution also states that “human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights.”³⁸ Article 24 on Equality Before the Law of the Constitution also ensures that “no one shall be discriminated against on grounds of race, colour, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.”³⁹

Additionally, Kosovo has committed to align its legislature with the EU *acquis* through the Stabilisation and Association Agreement in 2015.⁴⁰ Consequently, EU Directives have been transposed to the Draft Law on Labour, written in 2018 by the former Ministry of Labour and Social Welfare, now merged in the Ministry of Finance, Labour and Transfers.⁴¹ Some of the relevant transposed EU Directives in the draft include: Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; Council Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organization of working time; Council Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

38 Official Gazette of the Republic of Kosovo (2008) Constitution of the Republic of Kosovo, pg. 14.

39 Ibid, pg. 7.

40 Official Journal of the European Union (2015) European Stabilisation and Association Agreement Between Kosovo, of the One Part, and the European Union and the European Atomic Energy Community of the Other Part, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A2016A0316%2801%29>.

41 Council Directives 91/533/EEC, 92/85/EEC, 94/33/EC, 96/71/EC, 67/EU, 97/81/EC, 98/59/EC, 99/70/EC, 2000/43/EC, 2000/78/EC, 2001/23/EC, 2002/14/EC, 2003/88/EC, 2006/54/EC, 2008/94/EC, 2008/104/EC, 2010/18/EU. Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft, pg. 3-6.

The Council Directive 92/85/EEC of utmost importance in protecting the rights, safety and health of pregnant or breastfeeding workers, regulates night work, time off for ante-natal examinations, prohibition of dismissal, defence of employment rights, and a maternity leave of at least 14 weeks for workers, as per national law and practice.⁴²

Recently Directive (EU) 2019/1158 of the European Parliament and of the Council on work-life balance for parents and carers, repealing Council Directive 2010/18/EU, introduced in 2019, will be added to the Draft Law on Labour.⁴³ This latest directive on work-life balance for parents and carers states:

“Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market, the equal sharing of caring responsibilities between men and women, and the closing of the gender gaps in earnings and pay.”⁴⁴

This Directive is in line with Fudge's first conceptual change of what should count as working time, based on the assumption that not just women, but all workers do domestic labour.

Additionally, Article 4 on Paternity Leave obliges that fathers, or the equivalent other parent, take ten working days, known as paternity leave.⁴⁵ This can be flexible in its taking, before or after the birth. Additionally, Article 5.1 and 5.2 of Parental Leave states:

42 Official Journal of the European Union, Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0085-20190726#B-6>.

43 Interview with Ministry of Finance, Labour and Transfers Representative, August, 2021. Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1158>.

44 Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

45 Ibid, Article 4 on Paternity leave.

1. Member States shall take the necessary measures to ensure that each worker has an individual right to parental leave of four months that is to be taken before the child reaches a specified age, up to the age of eight, to be specified by each Member State or by collective agreement. That age shall be determined with a view to ensuring that each parent is able to exercise their right to parental leave effectively and on an equal basis.

2. Member States shall ensure that two months of parental leave cannot be transferred."⁴⁶

Transposing these provisions will further ensure the equal share of unpaid care work, which will have a direct impact on the situation of women in the labour market. However, the part of determining a child's age to be eight leaves out parents who are adopting children aged eight years and up, where leave to bond with their adopted children is crucial for both parents. Sub-article 5.8 of Parental Leave regulates that Member States may accommodate the leave for adopting, as well as parents with children with disability and longer illnesses.⁴⁷ The Draft Law leaves this case out though, potentially creating problems for workers under these circumstances, as elaborated further in the next section.

Differently from the other Directives, Article 6 includes a carers' leave, stating that workers have the right to carers' leave for five days annually, or as needed for workers in disadvantageous positions, with details to be arranged by Member States themselves as per national laws and practices.⁴⁸ This is in addition to *force majeure* time off for sudden and urgent family reasons.⁴⁹ Given that both parents might require from their own employers carer's leave, this partly contributes as per Fudge's labour market conceptual changes of equal share of care work, and this being paid equivalently to the worker's wage.

⁴⁶ Ibid, Article 5.1 and 5.2 on Parental leave.

⁴⁷ Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, Article 5.8 on Parental leave.

⁴⁸ Ibid, Article 6 on Carers' leave.

⁴⁹ Ibid, Article 7 on Time off from work on grounds of *force majeure*.

Similarly, Article 8.3 on Payment or Allowance ensures that parental leave is paid in such a way that both parents can afford to take it.⁵⁰ Moreover, Article 9 elaborates flexible working arrangements for the workers with children and carers, to be ensured by the employer, whereas Article 10 ensures that labour rights are respected, also in addition to social security and pension contributions entitlements.⁵¹

Lastly, as part of this Directive, “Member States have the competence to define marital and family status, as well as to establish which persons are to be considered to be a parent, a mother and a father.”⁵² In this regard, contributing also to addressing the heteronormativity of the (Draft) Law on Labour, toward a more intersectional and feminist perspective, other terms might be used to who is considered a parent, and advocacy efforts to amend other related national laws should be made in collaboration also with LGBTQIA+ CSOs.

In the next section, a comparison between the current Law on Labour and the Draft Law on Labour of 2018 will be made, particularly with respect to the maternity, paternity and parental leave provisions where applicable, as well as a brief assessment of the transposition of EU Directives to this draft will be included.

50 Ibid, Article 8 on Payment or allowance.

51 Ibid, Article 9 on Flexible working arrangements.

52 Ibid, (18).

ANALYSING THE (DRAFT) LAW ON LABOUR FROM A FEMINIST PERSPECTIVE

While the previous section focused mainly on the Directive on work-life balance for parents and carers, this section focuses on the transposition of previous Directives as well as the Draft Law on Labour in general written in 2018, from a feminist perspective. But firstly, the leave provisions between what is being proposed and what is currently in power are reviewed.

Per the current Law, maternity leave consists of six months compensated at the 70% of the basic income from employer, three months compensated at the 50% of the average wage in Kosovo paid by the government, and three additional months which will be unpaid; as well as only two to three days paid paternity leave by employer and up to two weeks unpaid paternity leave. The issues are that entitlement for mothers can be transferred to the father only when the mother is sick, abandons the child or dies.⁵³ So, the law perpetuates gender norms and stereotypes that the father is as good of a parent only when the mother is not in the picture. Traditional and cultural norms are very hard to change and require immense efforts throughout long periods of time, but when laws also perpetuate these norms, then it will be very hard to dismantle them. Additionally, it can be argued that through this, the current Law allows for gender-based discrimination in hiring, promoting, and condemns women with a life of no resources and in poverty, with the assumption also being ingrained in society's mindset that women will either way be dependent on men: their fathers, husbands or sons. Furthermore, it maintains and reinforces gender norms, perpetuating the assumption that women should take care of the future labour force and are "expected to shoulder the economic burden of unpaid care work," in Fudge's words.⁵⁴ Consequently, the current Law not only is a "bearer of

53 Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour, Article 50.1.

54 Fudge, J. (2014) Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction, *Fem Leg Stud* Vol. 22:1-23, doi: 10.1007/s10691-014-9256-2, pg. 20.

gender" but also becomes a "reinforcer of gender inequality"⁵⁵ as per Elson's words, by promoting and expecting men's involvement to be passive in the aspect of care work, while regulating their contribution to be more tied to market work.

A higher burden for the private sector to cover than state, also reflects a neoliberal approach where market regulates without state intervention where the care work for future labour force and human capital comes from. Hence, in the name of profit maximization and efficiency, helped by lack of inspections for labour rights violations, the burden is put from the private sector to women to shoulder. Different women are being subject to prevalence of gender-based and multiple discrimination in hiring, promoting, training, pensions, contributions and social security. Women have to find solutions individually or through their own safety nets to provide informal care for children in order to remain part of the labour market. Hence, the neoliberal approach of leave policies burden being left to the private sector by the state has perpetuated and maintained gender inequality and patriarchy throughout the years of this Law in power. Another approach would be that leave policies be recognised as investment rather than costs, and the state covers all leave policies as done in regional countries.

With regards to the Draft Law, this was written in 2018 with 17 EU Directives transposed in its content, except the last one on work-life balance for parents and carers.⁵⁶ The leave provisions include three first months of maternity leave compensated at 70% of the basic income by the employer, six additional months compensated at 50% of average wage by the government, and three additional months without compensation, with the option that the last six and three months can be taken by the father if agreed with the mother. Additionally, a paternity leave of ten days is included, paid by the employer for the (adoptive) father, and two weeks of unpaid leave at birth or upon adoption of child, which they can take before the

55 Elson, D. (1999) Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues, World Development Vol. 27, No. 3, pp. 611-627, Elsevier Science Ltd., pg. 613.

56 Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft.

child turns three. Furthermore, flexible terms on parental leave take up to four months are included, stating that they can be taken at the same time or separately by both parents (for adopting parents, parental leave might be taken until when the child becomes 6 years old). Even though, the burden of leave provisions is shouldered for longer time by the state than previously done, the amounts provided to parents taking the leave still gives incentive for women to take a larger share of the parental leaves than men for the household, when they are both employed, contributing to maintaining the situation of oppression for them further. In accordance with EU Directive on work-life balance, the amounts should be adequate to give incentive for men also to take the leave: "To increase incentives to workers who are parents, and to men in particular, to take the periods of leave provided for in this Directive, workers should be provided with a right to an adequate allowance while on leave."⁵⁷

Other issues of the Draft Law include the following: Article 3.1.39 on the Definition of Discrimination should include sexual orientation and gender identity-based discrimination, as well as employers seeking information from the employee concerning worker's gender identity should be prohibited and added to Article 14.2 on Pre-contractual Relations.

With regard to Sub-chapter 4 on Termination of employment relationship of this Draft Law, Article 21.6 on Trial Period is contradictory to Article 36 on Prohibition of Termination of Employment Contract and Article 39.5 on Extraordinary Termination of Employment Contract by the Employer, where the first allows the employer to terminate the employment of a pregnant or breastfeeding woman in exceptional cases not related to her pregnancy, whereas the later articles specify that this cannot happen under no circumstances. Such Articles like 21.6, despite being targeted for probation periods only, leave space for violation of rights where "exceptional cases" is subjective to power relations between employer and worker. Furthermore, special focus should be given to cases where women's contracts expire while they

⁵⁷ Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, (29).

are pregnant, on maternity leave or after they have come back to work. In these lines, regarding Article 32.1.3 on Termination of Employment Contract on Legal Basis, stating "1. Employment contract, on legal basis, may be terminated, as follows: 1.3. with the expiry of duration of contract, unless this Law provides otherwise,"⁵⁸ it should be added, "*with the exception of workers in maternity, paternity and/or parental leave,*" to avoid violations from employers issuing short contracts particularly to women in order to pressure them not to take maternity leave to conform to their rights. Additional job protection schemes and legislature should be included, regulating employment contracts length and limiting the number of times the employer might issue a contract to the same worker.

Regarding Sub-chapter 3 on Protection of pregnant employee, breastfeeding employee, employee who has recently given birth, protection of parenthood of the Draft Law, the term "if not prevented by objective reasons" of Article 116.3 on Free time for screening for employee entitlement to flexible working time when caring for child under 12 years of age, should be removed or rephrased, as the term "objective" is subject to unequal power relations between workers and employers. Moreover, Article 117 on Other rights of breastfeeding employee[s] does not mention if the Law on the Protection of Breastfeeding regulating breastfeeding workers' rights will also be amended. Article 118.9 on Maternity Leave and compensation, stating that the six months compensated at 50% of the average wage in Kosovo may be transferred to father if agreed in households where both are employed will not happen without a financial incentive for fathers to take, as usually men have larger income than half of the average wage, reinforcing this way gender norms and furthering poverty for women through the life course. Article 120 on Maternity Leave in the case of the Death of the Infant, should also include parental and paternity leave in case of stillbirth, in accordance also with EU Directive on work-life balance for parents and carers,⁵⁹ in

58 Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft, Article 32 on Termination of Employment Contract on Legal Basis, pg. 55.

59 "Member States are also able to grant paternity leave in the case of a stillbirth." Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and

order not to perpetuate or reinforce gender stereotypes on coping with loss. Furthermore, as per this Directive, the Draft Law should also regulate provisions for parents in specific circumstances, such as with premature births.⁶⁰ Additionally, Article 121.2 on Return from maternity leave allows for violation of rights and should be rephrased to include "[...] to assign her to the *equivalent position with equivalent salary and opportunities before taking the leave*," protecting the worker on leave to be assigned at a position with no penalties in wage, trainings and promotion. Article 122 on Parental Leave of the Draft Law should be updated as per Directive 2019/1158, especially the part of at least two months of parental leave to be non-transferable, since the non-transferable criteria is not mentioned at all. Article 123.2 on Parental Leave in case of adoption states "parental leave pursuant to this Article shall be provided until the end of second (2) year from the day the child is taken into adoptive care, but not longer than until the day the child turns six (6) years of age,"⁶¹ disregarding cases of adoption of children older than 6 years old, who also need bonding time. The same issue remains with Article 123.3 on adopted children with need of special care, longer illness or with disabilities; the leave should be allowed to be taken for all adopted children, not just those younger than eight years old. Article 124.2 on Return from parental leave, also is problematic similar to Article 121.2, as it allows space for violations and does not ensure returning to the same original work position or *its equivalent*. Article 125 on Income During Parental Leave makes it unclear if the parental leave compensation will be covered by employer or state.⁶² Finally, Article 128 on Absence from Work due to Special Care for the Child should allow part time hours for each parent at separate times until the child becomes three years old, "after the

carers and repealing Council Directive 2010/18/EU, (19).

60 "[...] the right to paternity leave, carers' leave and flexible working arrangements should be adapted to particular needs, such as of those of single parents, adoptive parents, parents with a disability, parents of children with a disability or a long-term illness, or parents in particular circumstances, such as those related to multiple births and premature births." Ibid (37).

61 Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft, Article 123.2 on Parental leave in case of adoption, pg. 166.

62 "Matters regarding social security and income of an employee on parental leave are governed by special Law." Ibid, Article 125 on Income during parental leave, pg. 168.

expiry of maternity [*and paternity*] leave [*respectively*],"⁶³ given the non-transferrable criteria of Directive on life-work balance, to amend that this is not meant for women only and address for potential further violations of gender-based discrimination in hiring, promoting and social security.

With respect to the current Law on Labour detailed issues and shortcomings, these will be discussed in the next section where findings derive from diverse women's testimonies as well as interviews with employers', institutions' and (women) civil society organisations.

63 "A child that necessarily requires special care due to poor health conditions, a child with permanent disabilities in the context of provisions of health insurance, respectively, shall enable one of the parents to work part-time, after the expiry of maternity leave, until the child becomes three (3) years old." Ibid, Article 128.1 on Absence from Work due to Special Care for the Child, pg. 170.

FINDINGS: WOMEN'S TESTIMONIES ON THEIR EVERYDAY REALITIES RESULTING FROM THE LAW

The patterns in answers from women, employers, and (women) rights organisation interviews told a very stark story where not even the bare minimum of implementation of the Law on Labour is being done. Violations of labour rights varied from working informally without a contract, no social benefits and pension contributions, to working on weekends, longer hours without pay, leave policies, breastfeeding breaks, annual leave, termination of employment, unpaid statutory leaves, neglect of gender and non-majority communities' quotas in both public and private sector, as well as in organisations, even though with variations on the magnitude. Interviewed women mentioned working without contracts, on weekends and that they were not able to take breastfeeding breaks when they returned from maternity leave.

With respect to **leave provisions**, women have been penalised from these historically. A woman noted: "When I gave birth in 2006, the director called me and gave me three options: to go back to work after three months and leave my baby, no chances I would do that; to remove me from the payroll list, which would mean I would get fired; and, to give them my bank account card, which I ended up doing eventually and they took the [leave] payments for all the [remaining]

"I did not have the security that I could return to my job after five, six months [of maternity leave]."

Woman in private sector, Prishtina

"I cannot take the [three months] unpaid leave even though I want to, because it will be too long: it will be December and then next year they will not extend my contract."

Woman in private sector, Peja

"10% of the employees in the organisation should be from the [non-majority ethnicity] communities. I complained using this [to my employer]. The law is very good, but it is not respected anywhere."

Woman in private sector, Prishtina

months.”⁶⁴ The discrimination continued more structurally, particularly in the private sector, with the adoption of the current Labour Law in 2010. Women said they had to return to work because they could not afford the low level of payments for maternity leave in times when the household expenses increased.⁶⁵ These were brought forward mainly by women in the public sector, whereas in the private sector other issues were emphasized more.

Women stated that they were forced to interrupt their maternity leave in order to maintain their jobs, mainly happening in the private sector in different regions. In some cases, women returning from maternity leave mentioned that especially because of the COVID-19 pandemic lockdown, their annual leave days would be revoked, with the reasoning “you have rested enough.”⁶⁶ Assumptions directly linking the current Law with gender-based discrimination and termination of employment were made, emphasizing that if the current Law on Labour would not have put a higher burden of maternity leave provisions to the private sector, women’s employment would have been higher than it is. Similar patterns of

“In many private [companies], [...] they have been forced to return the [maternity leave] money back, just so they would not get fired.”

Woman in public sector, Prishtina

“I am talking about a friend in the private sector who was forced to return to work because the employer [...] called her and told she should resign because they can’t afford it.”

Woman in private sector, Prishtina

“After two weeks [of giving birth] I went straight back to work. This is the sad truth. I cannot say that these two weeks were not paid: I was paid only 100 Euros.”

Woman in private sector, Ferizaj

“I have heard that there are many cases in other cities when [the woman] gets pregnant [she] is fired; maybe this is because the company has to pay 70% [of the basic salary] for six months, and it is normal I believe that if the company is reimbursed something from the state, then fewer [women] will get fired because of maternity leave.”

Woman in private sector, Gjilan

“I had a friend in Peja who worked in a private institution. When she was pregnant, they told her that it was better for her to resign because [they] did not cover the maternity leave, and she [had to] quit.”

Woman in private sector, Peja

64 Interviewed woman in the public sector, in Peja, July 2021.

65 Interviewed women in the public sector, Gjakova and Prishtina, July, August 2021.

66 Interviewed woman in the private sector in Peja, July, 2021.

women's responses on public sector being more stable for women to work on than the private sector were noted, particularly with respect to discrimination in hiring and maternity leave violations. This is also confirmed in patterns from employers' interviews in various regions. Some businesses discriminate in hiring and terminate or do not extend contracts for women that plan to start a family, or as one employer in the private sector put it "when troubles of pregnancy start."⁶⁷ Others understand it as a matter of "good will" to keep women on maternity leave in their jobs rather than as something that they are legally obliged to do. Sometimes they do not hire substitutions for workers in their maternity leaves, adding to their workload and pressure to force them to return to work at a time when a life-work balance approach is crucial. Not hiring a substitute is sometimes done intentionally as less costly, and sometimes has proved to be hard given that short term contracts are not attractive to workers, as per some employers.⁶⁸

"It is a slightly deeper problem: all women are discriminated against. I selectively take care not to hire women because for me the cost is very, very high."

Private Sector Employer, Prizren

"We have eight women workers, but I have to condition them, forgive me in expression, to be done with children [and] hire those who are married with children already, otherwise when it comes to giving birth [and take maternity leave], I have to fire them. But we do not prefer to do that, so we check other possibilities."

Private Sector Employer, Prishtina

"All the employers 'run away' from hiring women."

Private Sector Employer, Ferizaj

"The point is that the private sector pays [maternity leave allowances] mainly themselves. They check if she has fulfilled 'family obligations.' Everyone tries to go away from these things."

Private Sector Employer, Peja

Interviewed women reported various experiences with regard to **breastfeeding breaks**, where the Law on the Protection of Breastfeeding was mainly implemented by businesses, public institutions and civil society organisations. Women were able to have two times a day breaks for breastfeeding, additionally to the lunch break, before the child turns one in some cases, and sometimes only one-hour break until the child reaches two years of age. Some were allowed to come later

⁶⁷ Interviewed employer in private sector in Ferizaj, August 2021.

⁶⁸ Interviewed employer in private sector in Peja, August, 2021.

or leave earlier. However, violations also occurred where women in the private and public sector said they were allowed to have breastfeeding breaks only one hour during the day, or just half an hour break; some said they were not allowed to take any breaks for breastfeeding also in ICSSOs. No private room or place to use breastfeeding pumps in their workplace were also raised as an issue. It is particularly problematic, and it can cause major health issues for women, like getting mastitis, if no breaks are allowed as well as if no place is dedicated for breastfeeding at the workplace. In some cases, women used their own lunch breaks to be able to breastfeed, and as one of them puts it: "It is quite challenging as you don't have time for yourself at all."⁶⁹

With regard to **childcare centres**, women reported various realities, from it being too expensive for the private sector, particularly in Prishtina, to being hard to get a place in public childcare centres or less flexibility in hours and acceptance when children are sick. Occurring nepotism or falsely being entitled to a place as a war veteran family, were reported as problematic in public childcare. Because of these issues, women's solutions varied depending on class: some sent their children to private schools, whereas others tended to use informal care from grandmothers and grandfathers, or similar safety nets in order to make ends meet.

"The fight is in the private sector [...] you simply just don't have the time on Saturday, Sunday, Friday, nor [do you have] annual leave, health insurance, breastfeeding breaks; you have absolutely nothing but to survive, this is the fight, to survive even if as a result you will not be happy knowing you are only surviving and not doing anything for yourself."

Self-employed woman, Mitrovica

"During the interview [for previous job], they asked me: do you plan to have a child, when do you plan to have a child, do you plan to have a child for the first two to three years and that this does not suit us. I know from friends that [work] in the private sector, maybe even the public [sector], the chances of getting a job are small or minimal."

Woman in private sector, Prishtina

"The employer and the directors do not welcome very well the moment when someone plans to take the maternity leave."

Woman in private sector, Gjakova

⁶⁹ Interviewed self-employed woman in Mitrovica, previously working in private sector, August, 2021.

The patterns from the interviews claim how difficult becomes for women when in addition, both tradition and religion interact with each other to maintain the social norms, where in the impossibility to juggle through all the issues mentioned above, they have to choose between quitting their jobs or family planning. As one very well describes it: "Normally who quits it's usually mothers, at least in Kosovo this is how it goes, don't know if it is a matter of tradition."⁷⁰ On the other hand religious and gender essentialist ideas also contribute to the maintenance of gender roles and stereotypes. As one woman reaffirms, such mentality exists deeply entrenched in society's beliefs and is passed also intergenerationally: "I do not think that the father has the same love and care as the mother [...]; the mother is *the* mother, as this has been set from God, from the moment she is born."⁷¹

However, for younger women maybe, **paternity and parental leave** would be solutions to the problem of the motherhood time-tax and discrimination in the labour market, as patterns in interviews show. Nevertheless, responses varied from those claiming to make it obligatory to account for the gender discrimination, to those claiming parental leave would

"They [employer] said to me they don't have breaks for breastfeeding, but even if they had I wouldn't be able to feed my child because I live in [North] Mitrovica and I wouldn't be able to travel every day and then even if I wanted to use the electrical breast pump there is no place where to do that – maybe I can use it in the bathroom, I don't know that's not the way it should be. I should have a private room where I can use the pump, save the milk."

Woman in international organisation, Prishtina

"They [childcare centres] are expensive for Kosovo standards."

Woman in private sector, Peja

"There are no [available] places in public childcare centres."

Woman in private sector, Prishtina

"In public childcare, it is too difficult to register your children, because of long waiting lists."

Woman in public sector, Gjakova

"As such, these compromises are made by women every day, [...] I have family members who have decided to quit the job completely because you can't afford to pay for kindergarten and other expenses, on top of travelling [from one city to the other], this automatically means you have to make a compromise with your dreams, since you cannot do both, which is very painful."

Self-employed woman, Mitrovica

⁷⁰ Ibid.

⁷¹ Interviewed woman in public sector, Gjiilan, August, 2021.

address for missed trainings, labour force participation and inactivity of women, toward more opportunities and gender equality.

Additionally, women stated that paternity and parental leave would empower them, in the sense of more decision-making, economic independence and agency. Some mentioned paternity and parental leave would help with responsibility sharing and alleviating discrimination, as well as it would serve well for women suffering from post-partum depression.

Women's answers showed patterns of tiredness and impossibility to keep a healthy **life-work balance**, for themselves and their families. This was more difficult for smaller cities:

"I have family members who work in Prishtina, because usually small towns have this problem, you definitely have to travel every day and you have to leave at 7:30 AM from home and not come back until 18:30; breastfeeding is impossible but also basic care is a luxury that you can't afford, you have to stay 10 hours away from the baby and these cases are very common."⁷²

⁷² Interviewed self-employed woman, Mitrovi-ca, August, 2021.

"It was precisely because [paternity leave] would reduce gender discrimination because I told you that the child grows up seeing things how they are, not by being said how things should be, and when for several months they see that the child is taken care of by the mother, and at the same time the father leaves [for work], [...] it orients them incorrectly."

Woman in (W)CSO, Gjakova

"Definitely, I would even make [parental leave] obligatory, so not only mother or father to take it, but when they are both working, I would make it obligatory for one parent to use half of the leave and the other the other half."

Woman in private sector, Prishtina

"Of course men are being promoted, it is normal because of the training they followed. I am sure that if I had attended those trainings, I would have benefited a lot from them as well."

Woman in private sector, Prishtina

"It is always discussed not to take women, [the company] should hire more men, that women are missing out on trainings. I myself have experienced it, during the time I was on maternity leave, the platform had some things changed. I felt very bad, when I went to work they did not update me, no material, to say we did this while you were not here. I learnt to do all the operational work from other colleagues and make it on my own. And of course if a man would go to [paternity] leave, they would know first-hand how it is."

Woman in private sector, Prishtina

All these are the results of a Law on Labour that maintains the status quo when it comes to gender inequality in the labour market, kept intergenerationally, as elaborated below:

"The idea that men do not have [paternity/parental] leave like women, increases the gender gaps, also for our kids... for example my daughter, which is six, she asks me why I don't go to work, and I tell her I should take care [of the baby], and she sees that her father leaves for work. It tells her from now that the one who should care is the mother."⁷³

Additionally, other testimonies and experiences from women included **miscarriage, being a single parent, and adoption.**

Except the Law on Gender Equality, where Article 17 on Obligations of employer in employment relationships mentions leave in case of abortion,⁷⁴ there is not enough information on what such leave entails. While Article 51 of Law on Labour regulates Maternity Leave

"The involvement of fathers [in childrearing] is still considered as a shame [...]. When more educated, when more economically stronger, [women] possess a different role... a different role in decision-making, empowerment."

Woman in public sector, Prishtina

"It [parental/paternity leave] would change [men's] perception[s]: first of all, they would understand that they can also take care of their child. [My husband] knows to do absolutely everything, even to warm the milk, to feed [the child], to change diapers... he did that because he had to. And this is how we change the situation where [men] also participate. They always use the excuse 'Oh you have six months or twelve months on the leave... I have to work and you can take care of the child,' and they don't participate in the child's life as they should."

Woman in international organisation, Prishtina

"It would be welcomed, first three months or second [for fathers to take leave]. Women have [post-partum] depression, for months you are blocked inside [...], I was isolated for six months and didn't go out."

Woman in public sector, Prishtina

⁷³ Interviewed woman in civil society organisation, Gjakova, August, 2021.

⁷⁴ Official Gazette of the Republic of Kosovo (2015) The Law on Gender Equality, Article 17, "1.16. The time schedule, in accordance with the needs of the employer and the family needs of the employee must be organized in such a way that male/female employers can return to their previous posts after maternity leave, parental leave, abortion leave, sick leave or after the time spent out of the place of work due to family emergencies or professional training."

"It would be very good as the burden is carried from women, it is completely falling on women, from job, to household chores. It would have been better to share responsibilities and also men to connect with their own kids."

Woman in public sector, Gjakova

"[Women] would have the flexibility to go to work afterwards, not to lose much from absence of work, because when you go back it looks like you have to start from the beginning."

Woman in public sector, Prishtina

"Of course, we would feel equal. Definitely every private institution, doesn't hire because you are a woman in an age of family planning."

Woman in public sector, Prishtina

"Yes, because I know many cases where women lost their jobs in private institutions due to maternity leave, so I think it would have been a different story if [the leave] was to be shared – it would change [fathers'] ways of thinking and they would help women to achieve their goals and not lose their jobs due to maternity leave."

Woman in private sector, Prishtina

"Superwoman" pressure, interrupted dreams, "tired and unhappy"

"It is the saying 'I'm tired of parenting like I'm not working and working like I'm not parenting,' you know at all times somehow you have to prove to yourself that you can make it and so people don't judge you afterwards. Superwoman means to sacrifice all your life, we built it ourselves, we created fatigue as a value, we consider a value that we are exhausted all the time otherwise something is wrong with you. I notice at myself, all the time I have to fight self-consciously with myself and remind myself that 'hey you deserve this.' You shrink, expectations are reduced, vision is diminished, everything is reduced, and this is it, now in order to be acceptable to society, most decide to stay at home instead of 200 euros for childcare, 200 euros travelling [between cities], nothing is left, and as a result eventually most women are very unhappy. [...] You're never good enough for the society. The result is exhaustion and unhappiness."

Self-employed woman, Mitrovica

in case of death of the infant for no less than 45 days,⁷⁵ this is not implemented, as observed in interviews.

The Draft Law on Labour also regulates these cases with Article 120 on Maternity Leave in the case of the Death of the Infant:

"If an employed woman gives birth to a dead infant or if the child dies before the expiry of maternity leave, she is entitled to maternity

⁷⁵ Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour, pg. 16-17.

leave after doctor's recommendation, until the recovery from birth and the psychical condition caused with the loss of the infant for no less than forty-five (45) days, during which period she shall be entitled to all entitlements under the maternity leave."⁷⁶

"I am going to give an example of one day of my life, the baby is breastfeeding on demand, I am not feeding him with anything else, whenever he wants. So, I wake up few times during the night to breastfeed him, I wake at 5:00 AM, leave the electric pump, travel to Prishtina, from 8:00 until 12:00 I don't have any break, from 12:00-12:30 I have a lunch break, and then I work until 4:00 PM. I come home from 5:00 PM and from 5:00 PM to 5:00 AM in the morning I take care of the child, do household chores, I am doing everything... It's really hard, demanding and challenging."

Woman in international organisation, Prishtina

"It is very difficult, emotionally you are not okay, sometimes I went from kindergarten to work in tears."

Woman in public sector, Prishtina

"After I had a miscarriage, I went straight to work. [...] I have experienced it myself and the cases are very frequent, at least in the hospital where I was, I was the fifth or sixth to have a stillbirth within an hour."

"I was in no state to be able to work, emotionally or physically, [but] there was no way I could take leave. [...] The very idea to return to work is some kind of pressure. [...] You get ready for the baby and in the end there is nothing. [...] Returning to work was a state of horror."

"I contacted human resources, [they told me] there is no such leave, you need to take sick leave. Women are taught to not raise their voice, to shrink like in my case, I was forced to go back to work. [...] My husband had to take annual leave to attend to the mortuary ceremony. I was not able to get out of the hospital on my own."

Woman in public sector, Rahovec

The Law should include the possibility for fathers also to be able to take absence of leave in these cases, should they want it. Milk disposal places in the office for women having a miscarriage should be included in the (Draft) Law. Efforts should be made in the implementation of these laws.

⁷⁶ Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft, Article 120.1 on Maternity Leave in the case of the Death of the Infant, pg. 162-163.

Adopting leave has been included in the Law on Labour through Sub-article 48.3, 50.2.1 and 50.2.2.⁷⁷ The Draft Law on Labour includes maternity, paternity as well as parental leave in case of adoption. However, as stated previously, Article 123.2 and 123.3 on Parental Leave in case of adoption disregard cases of adoption of children older than 6 years old and 8 years old, respectively.

"I need a few months to bond [...] As adopting parents, both should be on leave – definitely I would involve the father too."

"You're not entitled leave if your child gets sick, you should get annual leave to care for your sick child."

***Woman in private sector,
Prishtina***

Paid sick leave of 5 days annually intended for the (adopting) parent or carer to take care of the sick (adopted) child is included in the Draft Law, also in accordance with the EU Directive on work-life balance for parents and carers.

⁷⁷ Ibid, pg. 15-16.

AN INTERSECTIONAL APPROACH TO THE LABOUR MARKET AND ITS LEGISLATURE

Given the possibility of multiple discrimination based on various identities on the margins and outside the centre of the rich, urban, cis, white, abled man, labour markets and laws regulating them are not only gendered, but also heteronormative, protecting the interests of able, white, male workers perspectives, while maintaining hierarchies of power between employers and workers. While the (Draft) Law on Labour regulates the rights of people with disabilities, this is not done for other non-majority ethnicities and LGBTQIA+ community.

Indeed, the rights of workers with disabilities are protected through the Article 5.2, 17.4, 32.4, 44, and 47 of the Law on Labour,⁷⁸ as well as with (Amending and Supplementing) Law on Training, Professional Rehabilitation and Employment of Persons with Disabilities.⁷⁹ Interviewed workers with disabilities state that there is no multiple discrimination based on gender and ability, however the Law on Labour Article's

"There were cases when workers were not registered at the Tax Administration of Kosovo by the company, and when inspectors would make control visits there have been cases when they had been forced to hide in the bathrooms."

"The Labour Inspectorate is failing in this direction. If the Labour Inspectorate was more active, the fear of employers from sanctions would have changed the situation and treatment regarding the average wage, working hours, because most of employers keep workers after their working hours and do not receive any additional benefits for the extra hours."

"Without finding a new stable job I do not dare to talk, I currently support my family, my husband and son, then currently I also support my parents, as I do not have a brother, I am only with a sister and two parents, and I have to support them."

***Woman with disabilities
in the private sector, Ferizaj***

⁷⁸ Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour.

⁷⁹ Official Gazette of the Republic of Kosovo (2016) Law No. 05/L-078 on Amending and Supplementing the Law No. 03/L-019 on Training, Professional Rehabilitation and Employment of Persons with Disabilities, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>, and (2009), Law No. 03/L-019 on Vocational Ability, Rehabilitation and Employment of People with Disabilities, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>.

"I am a member in various organisations protecting the rights of people with disabilities, but it was not possible to address [the problems] because the employer would directly or indirectly get revenge and the one who would suffer at the end would be you."

"In the private sector, [the employer] absolutely does not give you any right for part time work for any parent."

"The Law on Labour, especially the sub-legal act for persons with disabilities, for women with physical disabilities, is not applied in the private sector, particularly with regard to pensions, [we] do not enjoy any rights, it functions only with nepotism here."

Woman with disabilities in the private sector, Ferizaj

"It's not that we didn't have cases of discrimination from [LGBTQIA+ community] workplaces when they discovered [the worker's] sexual orientation. The moment [sexual orientation/gender identity] becomes known, the chances of being discriminated against, are higher."

"I notice that gender identity is not even mentioned always, because people tend to confuse it with sexual orientation... it doesn't have to do as much with hesitation, rather than with ignorance."

"When when the Law on Labour does not offer protection since it doesn't mention [LGBTQIA+ community], analysing it is not worth it as it doesn't offer any basis to fight for the right that it has been violated to you."

LGBTQIA+ rights CSO, Prishtina

"In our municipality there is only one kindergarten. In rural areas there are educated women that are married there [and] can't bring their children in Malisheva['s kindergarten] and go to work in another village, as most of them are teachers or nurses in villages."

WCSO in Malisheva

"There is no transport, it is worse for women who have to take absence of leave from work because there is no transport. In Prishtina and Ferizaj there are a lot of kindergartens there, [women] don't have to take days off, they take their children there. [Here] there is no kindergarten, no transport."

WCSO in Novo Brdo

for people with disabilities are not being implemented, referring to "mothers with children up to three (3) years of age and single parents as well as persons with disabilities are entitled to additional two (2) working days off," where inspections from labour inspectors have been reported as lacking. Other laws regulating pensions for women with disabilities discriminate against them.

"Just a few women in the [non majority ethnic] community are employed in the private sector, let alone in the public sector. [...] Maybe before there were no professional profiles, but now the times have changed, there are a lot more educated girls, there are nurses, gynaecologists, [...] but they are not given opportunity [to work]."

"Fieldwork states that [ethnic] discrimination prevents them from accessing the labour market, because you are from the community, and don't have someone to get in with nepotism."

"There were cases [employers] made them leave from the workplace because they are from the community, they are 'dirty,' they are 'unwashed.'"

Woman in Ashkali community in public sector, Prishtina

"At University Clinical Centre of Kosovo, it is not respected that the 10% of worker candidates belong to [non majority ethnic] communities. I had to appeal and use this Law."

"Unfortunately, the laws remain in paper only, the state does not support us, and we remain in difficult circumstances, also economically. We have medics, teachers, jurists and economists but unfortunately we are not finding ourselves in Kosovo."

Woman in Egyptian community in public sector, Prishtina

With regard to LGBTQIA+ community both the Law on Labour and the Draft Law are very heteronormative in content, where sexual orientation as basis for discrimination is prohibited in the Draft Law, however gender identity is not mentioned at all. Furthermore, the whole language where the nuclear heteronormative family is the unit of focus of leave policies is deeply problematic, particularly among efforts to adopt the Draft Civil Code, with legal space for same sex marriage in Kosovo. Instead, less heteronormative language and concepts should be included such as spouses, partners, etc., in order for the law not to become problematic and a further barrier to the advances in the feminist, LGBTQIA+ movement progress achieved so far in Kosovo. These changes should be done in parallel with changes in other related legislature, allowing marriage and adoption in queer families.

With regard to non-majority ethnic communities, the Law on Labour did not mention them at all, whereas the Draft Law includes them in Article 14.3 on Pre-contractual relations, abiding the employer to ask for information regarding worker's ethnicity during hiring.⁸⁰ Discrimination

⁸⁰ Other Laws protecting rights of non-majority ethnicities, are regulated by the Law

based on belonging to non-majority ethnic communities is mentioned in interviews with women from these communities regarding education, hiring, accessing the labour market, formal contracts, and annual leaves. Patterns also include that with respect to the labour market, more priority is given to other ethnicities than to Roma, Ashkali and Egyptian communities. Lack of implementation is reported on employment quotas for non-majority ethnic communities.

Lastly, with regard to women living in rural areas, they struggle with means of transportation and childcare accessibility and infrastructure.

No.04/L-020 On Amending and Supplementing of the Law No. 03/L-047a On the Protection and Promotion of the Rights of Communities and Their Members in Kosovo, and Law No. 03/L-047a On the Protection and Promotion of the Rights of Communities and Their Members in Kosovo.

RELEVANT INSTITUTIONS

Interviewed relevant institutions included Labour Inspectorate, Ministry of Finance, Labour and Transfers, Ombudsperson Institution, and Labour Unions. All of these institutions have relevant responsibilities as per the current Law on Labour, the Law for Protection from Discrimination, and the Law on Gender Equality. The Law on Labour states that the **Labour Inspectorate** does inspections and receives appeals from workers whose rights have been violated and issues decisions within thirty days or informs the workers on the extension of reaching a decision; this is regulated also through the Law on Labour Inspectorate.⁸¹ The Labour Inspectorate not monitoring and giving sanctions to labour rights violations was a recurring theme among the answers from women in various regions. However, one labour inspector mentioned that they were aware of such violations regarding maternity leave and discrimination in hiring, however the employers hid behind different other reasons to terminate women's contracts. Labour Inspectors however are legally obliged to put sanctions when labour laws violations happen.

"The problem of the inspectorate is that it doesn't go on the field, doesn't interview competent people; the whole problem is that we have enough laws, but there is no implementation and no monitoring of the Law on Labour. [...] The Labour Inspectorate has failed in this case."

Woman in the private sector, Ferizaj

"Lastly, the Labour Inspectorate [...] makes few inspections and visits, maybe because it was also the pandemic... in comparison, labour inspectors are more rare than other inspectors."

Woman in the private sector, Gjilan

"Three [issues remain]: the low number of [inspectors], bad logistical conditions, cars and services, as well as electronic database of cases, and the workplace space."

"On the last day of expiry of the contract, the woman worker had to give birth. On the 31 August, that day in the morning she gave birth. Expiration of contract is a legal disposition; it doesn't ask if you're pregnant or not. You don't have a working contract anymore, the [labour] rights are only exerted when you have a contract – when you don't, you can't realise them."

Labour Inspector, Prishtina

⁸¹ Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour, Article 81 on the Protection of Employee by the Labour Inspectorate, Article 38 on Disciplinary Measures, and Article 94 on Supervision.

Additionally, no Labour Inspectorate database system of cases is currently in place, making discrimination cases statistics not available and accessible for analysis. Neither the Labour Inspectorate, nor the Ministry of Finance, Labour and Transfers could explain why the increase of labour inspectors has not happened yet, despite being planned for a few years, with only 37 available inspectors for all regions currently. This is also included in the Government Programme of the new elected Government, but no actions have been taken toward this yet. Hiring and appointing young inspectors, might generate revenues for the Government in sanctioning employers when they violate worker's rights. The Labour Inspectorate also mentioned that given that employers make short term employment contracts, then contracts of women in maternity leave are not extended after their expiry. Article 53 on Prohibition on Termination of Contract of the Law on Labour,⁸² protects women during maternity leave, pregnancy, or looking after children on special care, from employers terminating their contract. However, workers' rights might not be protected enough if job protection during maternity leave is not regulated through length as well as a limited number of issued employment contracts per worker from same employer.

The **Labour Unions** are responsible for representing and protecting the workers' interests and their labour rights. Labour Unions can offer support in filing appeals to the Labour Inspectorate when their rights have been violated, as well as increase awareness for workers rights. According to the head of the **Union of Independent Trade Unions of Kosovo (BSPK)**, the private sector discriminates against women and the law is not being implemented by this sector. Furthermore, the Women's Network within the Labour Unions is not currently functional, which also

"There is a problem, the Law is good but is not being implemented by the private sector."

Head of Union of Independent Trade Unions of Kosovo

"According to an analysis that we have, maternity leaves are not implemented [in the private sector]."

Head of Independent Trade Union of Private Sector of Kosovo

"I am a member of a labour union [...] there is not much they do for women; until now I haven't seen any support or effort from their side."

Woman in private sector, Prishtina

82 Ibid.

poses problems as to which structures address and put the attention to women's rights being violated. The Head of the **Independent Trade Union of Private Sector of Kosovo** stated that according to internal statistics, maternity leave is not being implemented from the private sector. According to him, this comes from a high burden of maternity leave payments to the private sector as regulated from the Law. He states that the situation is very different for the public sector. He states that for the private sector employer, "when he finds out [the worker] is pregnant he chooses other ways not to come

to the option [of terminating the contract] so it is not obliged to pay a worker who is going to take maternity leave."⁸³ Furthermore, he stated that there was an increase in the number of members who are women. However, patterns from interviews painted a different picture, where women answers suggested lack of trust that Labour Unions really do something regarding their violated rights.

"We had a case regarding an opening call and [gender-based] discrimination, when the worker was in a managerial position for ten years and appealed that the Board of Directors, consisting only of men, didn't respect the 50% [men and] 50% [women] law provision, and chose the other candidate which was yet another man."

"There is no state support for women, for example there are not enough kindergartens, or elderly care centres, which because of the financial situation our state cannot support women in this direction."

*Legal Counsellor,
Ombudsperson Institution*

The **Ombudsperson Institution** can handle cases ex-officio or by filed discrimination claims, and give opinions towards protecting and promoting human rights, as regulated by the Law on Ombudsperson⁸⁴, the Law on the Protection from Discrimination,⁸⁵ and the Law on Gender Equality.⁸⁶ The Ombudsperson Institution representative stated that they have had a few cases with double discrimination. She

⁸³ Interview with Head of Independent Trade Union of Private Sector of Kosovo, Prishtina, August 2021.

⁸⁴ Official Gazette of the Republic of Kosovo (2015) Law No. 05/L-019 on Ombudsperson, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922>.

⁸⁵ Official Gazette of the Republic of Kosovo (2015) Law No. 05/L-021 on the Protection from Discrimination, Article 9, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924>.

⁸⁶ Official Gazette of the Republic of Kosovo (2015) The Law on Gender Equality, Article 13.

mentioned that there is no support from the state for single mothers particularly and that there are no care centres for the elderly and children available that women can use. The issue, as per this institution, remains with Labour Inspectorate not having enough capacities to ensure the implementation of the Law, as well as there are no statistics on cases handled and sanctions issued on discrimination.

The Ministry of Finances, Labour and Transfers is responsible for the process of the Law on Labour amendment. The Department of Labour and Employment representative, mentioned that there was an increase in women taking maternity leave, consisting of 3,000 in 2020, compared to the previous years. She stated that this happened because of changes they made to the Administrative Instructions, improving the take up of the leave. However, she mentions that there is no available data on the maternity leave take up for the first six months, and the monitoring of the implementation of the Law on Labour is therefore challenging, particularly with such a low number of labour inspectors in the field.⁸⁷

The **University Clinical Centre of Kosovo** Central Administration representative stated that no data could be accessed regarding births by employed women before and after 2010 to this day, as registrations are made on paper and the political crisis of changing governments has contributed to the delay of establishing an electronic Health Information System.⁸⁸ The National Audit Office has reported that the process of establishment and implementation of the Integrated Health Information System is "characterised by irregularities," in 2017.⁸⁹

87 Interview with Department of Labour and Employment representative, Ministry of Finance, Labour and Transfers, August, 2021.

88 University Clinical Centre of Kosovo Central Administration representative meeting, August, 2021.

89 "Non-planning and non-coordination of activities at the appropriate level by the Ministry of Health, delays in the establishment of coordinating and inter-institutional monitoring mechanisms, prolonged procedures in procurement procedures for providing hardware and software, system maintenance shortfalls, lack of human capacities, inefficient and inadequate trainings for the use of the system, lags in timely provision of the database, delays in securing the civil registry of citizens and a variety of unfulfilled activities are the main causes for the inefficient and ineffective functioning and implementation of this system." Kosovo National Audit Office (2017) Health Information System faces difficulties during implementation, at: <https://www.zka-rks.org/en/news/sistemi-informativ-shendetesor-ballafaqohet-me-veshtiresi-gjate-zbati->

As per the Administrative Instruction No.11/2013 on Health Information System and Statistical Data Reporting, the National Institute of Public Health of Kosovo is responsible to collect and maintain data for local as well as international organisations.⁹⁰ However, no quantitative data has been made available from this institution either, to shed light into the implementation of the maternity leave take-up in Kosovo prior and after 2010. As per the interviews from businesses and institutions, as well as testimonies from women it can be noted that the Law on Labour has contributed to labour rights violations and gender inequality.

[mit/](#), and, Kosovo National Audit Office (2017) Efficiency and Effectiveness in the Implementation of the Integrated Health Information System, at: https://www.zka-rks.org/wp-content/uploads/2018/03/Raporti_auditimit_SISH_eng.pdf.

90 "In addition, this AI defines the location of the central base in the HIs, the communication between HIS database levels, data usage, access, confidentiality and reliability, data collection, responsibilities of each HIs, responsibilities of each healthcare staff within HIs, time limits, inspections and administrative and financial sanctions." Ibid, pg. 50.

MODEL PROPOSAL AND RECOMMENDATIONS INFORMING THE (DRAFT) LAW ON LABOUR

Informed by the findings from the interviews with women, employers and relevant institutions, the theoretical part preceding the legislative framework analysis as well as reviewed EU Directives, this situational paper puts forward the following model proposal for the leave provisions of the Draft Law on Labour that would address incrementally the discrimination women have faced the last eleven years, by the current Law on Labour.

Given that in all regional countries, the government covers leave policies with public funds, and following the theory of labour markets as gendered institutions as well as to address partly for the unequal division of care work and the discrimination in the labour market, the model includes that the government covers fully the leave policies. As per the EU Directive on work-life balance for parents and carers, two weeks paid paternity leave compensated by the employer, are obligatory for fathers to take. Additionally, this model is in line with the EU Directive as it compensates an adequate allowance that gives men incentive to take it, as well as is in line with the theoretical considerations and in accordance with interviewed women's patterns of answers, where low amounts paid in times of increased expenses forced them to return to work no later than the sixth month. Hence, this proposal adds a somewhat decent living standard for parents in times of higher expenditures for the household. Given that all is covered fully with public funds, the allowance is subject to a ceiling which allows the model to be covered by Kosovo's budget as well as gives incentive for both parents to take it equally.

	Government: 100% of basic salary (non- transferable)	Government: 70% of basic salary (transferable)	Unpaid (transferable)	Total
Women	2	3	1	6
Men	2	3	1	6
Total	4 months	6 months	2 months	12 months

In addition to the model proposal, other recommendations from a feminist perspective include:

- Ensure longer paid maternity, paternity and parental leave schemes as per above proposal, that follow EU Directive on work-life balance for parents and carers;
- Introduce and implement schemes of job protection by regulating length and limiting number of employment contracts issued by same employer per worker, protecting women's rights by avoiding contract expiry when they are pregnant and during and after leave;
- Ensure provision of vocational trainings upon termination of leave/return to work for workers;
- Ensure opening of childcare centres, including in rural areas, for more accessibility, flexibility and lower prices for early childhood education and care, eligible for children under 3 years old as well as above 3 years old;
- Ensure availability of free slots for childcare regulated based on location of work and/or residence at the municipality level, and sanctioning of occurring nepotism and corruption;
- Ensure transportation and infrastructure to childcare centres for rural areas when not accessible;
- Ensure Health Informative System is established and functions, in order to generate data;
- Improve monitoring of Law on Labour implementation, by increasing the number of inspectors and ensure establishment of Labour Inspectorate database system of discrimination cases;
- Increase fines and sanctions by labour inspectors for employers violating the Law on Labour, including relevant laws on protection of

breastfeeding, protection from discrimination and other secondary legislation; money generated by fines can be used to fund leave provisions;

- Ensure Labour Unions are more actively protecting women worker's rights;
- Ensure Women's Network of Labour Unions is functional and active again;
- Ensure harmonisation between primary and secondary legislature, as well as with EU Directives, as part of Kosovo's EU accession process;
- Ensure inclusion of diverse women CSOs in the consultations of amending the Law on Labour, including stepping away from a heteronormative language toward an intersectional approach;
- Ensure the Ministry of Finance, Labour and Transfers consults with women CSOs, before introducing and implementing further child benefits measures for unemployed women in order to not stimulate further inactivity and unemployment of women.

BIBLIOGRAPHY

Banjska, I., Rrahmani, G., Farnsworth, N. (2016) Striking a Balance: Policy Options for Amending Kosovo's Law on Labour to Benefit Women, Men, Employers and the State, for Kosovo Women's Network, at: <https://womensnetwork.org/wp-content/uploads/2018/10/20160504154201373.pdf>.

Banjska, I., Ryan, JJ D., Farnsworth, N., Demiri, L., Sijarina, L., Tërshani, A. (2019) Gender-Based Discrimination and Labour in Kosovo, Kosovo Women's Network, at: <https://womensnetwork.org/wp-content/uploads/2019/05/GBD-Labour-Kosovo ISBN-978-9951-737-31-9 FINAL.pdf>.

Dunaway (2001) The Double Register of History: Situating the Forgotten Woman and Her Household in Capitalist Commodity Chains. *Journal of World-Systems Research*, VII, 1, spring 2001, 2-29.

Elson, D. (1999) Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues, *World Development* Vol. 27, No. 3, pp. 611-627, Elsevier Science Ltd.

Farnsworth, N., Berisha, A., Browne, E., Guri, N., Kastrati, D., Rrahmani, G. (2016) Who Cares? Demand, Supply, and Options for Expanding Childcare Availability in Kosovo, at: <https://womensnetwork.org/wp-content/uploads/2018/10/20161103153827186.pdf>.

Fraser, N. (2013) *Fortunes of Feminism: From State-Managed Capitalism to Neoliberal Crisis*. London; New York: Verso, 2013. 248 pp.

Fudge, J. (2014) Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction, *Fem Leg Stud* Vol. 22:1-23, doi: 10.1007/s10691-014-9256-2.

Kosovo Agency of Statistics (2021) Labour Force Survey 2020, at: <https://ask.rks-gov.net/media/6241/labour-force-survey-2020.pdf>.

Kosovo National Audit Office (2017) Efficiency and Effectiveness in the Implementation of the Integrated Health Information System, at: https://www.zka-rks.org/wp-content/uploads/2018/03/Raporti-auditimit SISH_eng.pdf.

Mehmeti, I., Dobranja, D., Hashani, A. (2017) Women in the Workforce: An Analysis of the Workforce Conditions for Women in Kosovo, Riinvest Institute.

Ministry of Finance, Labour and Transfers (2018) Project Law No. xx/2020 on Labour, Unpublished Draft.

Official Gazette of the Republic of Kosovo (2008) Constitution of the Republic of Kosovo, at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702>.

Official Gazette of the Republic of Kosovo (2008) Law No. 03/L-047a On the Protection and Promotion of the Rights of Communities and Their Members in Kosovo, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2791>.

Official Gazette of the Republic of Kosovo (2009) Law No. 03/L-019 on Vocational Ability, Rehabilitation and Employment of People with Disabilities, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>.

Official Gazette of the Republic of Kosovo (2010) Law No. 03/L-212 on Labour, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2735>.

Official Gazette of the Republic of Kosovo (2011) Law No.04/L-020 On Amending and Supplementing of the Law No. 03/L-047a On the Protection and Promotion of the Rights of Communities and Their Members in Kosovo, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2791>.

Official Gazette of the Republic of Kosovo (2015) Law No. 05/L-019 on Ombudsperson, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922>.

Official Gazette of the Republic of Kosovo (2015) Law No. 05/L-021 on the Protection from Discrimination, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10924>.

Official Gazette of the Republic of Kosovo (2015) The Law on Gender Equality, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>.

Official Gazette of the Republic of Kosovo (2016) Law No. 05/L-078 on Amending and Supplementing the Law No. 03/L-019 on Training, Professional Rehabilitation and Employment of Persons with Disabilities, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>.

Official Gazette of the Republic of Kosovo (2020) Amendment of the Kosovo Republic Constitution, at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=31730>.

Official Journal of the European Union, Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0085-20190726#B-6>.

Official Journal of the European Union (2015) European Stabilisation and Association Agreement Between Kosovo, of the One Part, and the European Union and the European Atomic Energy Community of the Other Part, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22016A0316%2801%29>

Official Journal of the European Union, Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1158>.

OXFAM (2020) Time to Care: Unpaid and underpaid care work and the global inequality crisis, at: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620928/bp-time-to-care-inequality-200120-summ-en.pdf>.

Vunijqi, L., Halimi, S., Demolli, L. (2011) Impact of the Labor Law on Women in Kosovo, Kosovar Center for Gender Studies, at: http://kgscenter.net/site/assets/files/1465/6_impact_of_the_labor_law_on_women_in_kosovo.pdf.

