

Hashemite Kingdom of Jordan

Report to the Government

**Feasibility Study on the Implementation
of a Maternity Cash Benefits Scheme**

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Foreword

In May 2005, the Government of the Hashemite Kingdom of Jordan launched the Global Campaign on the Extension of Social Security for all, through which it expressed its intention of extending social security to a wider range of the population and to extend its scope to further social security branches. In addition, it signed in August 2006 the ILO Decent Work Country Programme which included among others the examination of the feasibility of setting up a maternity insurance scheme in Jordan.

In this context the Minister of Labour invited the ILO to undertake a feasibility study on the establishment of a maternity benefit scheme in Jordan, focusing on the provision of cash benefits during the maternity leave period. The Director General of the ILO assigned a team comprising Ms. Ursula Kulke, Co-ordinator for Standards and Co-ordinator for Arab States, Social Security Department, ILO Geneva, and Mr. Gilles Binet, Senior Actuary, Social Security Department, ILO Geneva, to this task, and they accordingly undertook a mission to Jordan from 5 to 10 October 2006 in order to gather information for the preparation of this study. Additional information and valuable comments were received from the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan upon submission of a first draft of the study in April 2007.

According to the ILO, maternity protection programmes comprise, in addition to cash benefits during the maternity leave period, medical care benefits, employment protection provisions, provisions for the protection of the health of the mother and the unborn child and provision for reasonable breaks in the working time for nursing mothers. At this stage, however, in accordance with the request of the Government, this Report focuses specifically on maternity cash benefits.

During its mission to Jordan, the ILO mission held extensive discussions with H.E. Dr. Basem Khalil Al Salem, Minister of Labour, H. E. Dr. Ziad Fariz, Deputy Prime Minister and Minister of Finance, Ms. Etaf Halasseh, Director of the Working Women Department of the Ministry of Labour and her staff and with the Advisory Committee of the Ministry of Labour, which consists of Government representatives, representatives of employers' and workers' organizations as well as representatives of the civil society, as well as with Dr. Omar Al-Razzaz, Director of the Social Security Corporation and his staff and representatives of employers' and workers' organizations of Jordan.

The discussions held during the mission pointed toward strong support for the establishment of a maternity insurance scheme in Jordan. However, it should also be mentioned that a few stakeholders expressed some reluctance, as they were afraid that putting in place such a scheme could become too costly. In addition, the majority of stakeholders expressed a strong interest in deepening their knowledge of maternity protection so as to be able to establish a scheme which would correspond to worldwide best practices and international standards.

The recommendations set out in this Report are based on the information gathered during the mission, comments provided by the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan upon submission of a first draft, data provided by the Social Security Corporation Jordan, the relevant ILO social security Conventions and worldwide agreed principles, as well as international best practices.

Data referred to in this Report is from Oeun, I.; Pardo Trujillo, G. 2005. *Maternity at work, A review of national legislation* (Geneva, ILO); *Social Security Programs Throughout the*

*World: Africa, 2005; Social Security Programs Throughout the World: The Americas, 2005; Social Security Programs Throughout the World: Asia and the Pacific, 2004; Social Security Programs Throughout the World: Europe, 2006,*¹ *Maternity protection at work: Revision of the Maternity Protection Convention (Revised), 1952 (No. 103), and Recommendation, 1952 (No. 95), Report V(1), International Labour Conference, 87th Session, Geneva, 1999; Introduction to Social Security, International Labour Office, Geneva. 1989; Humblet, M.; Silva., R. 2002. Standards for the XXIst century – Social Security (Geneva, ILO); and from information on web sides, such as the *Maternity protection database* available from the ILO Conditions of Work and Employment Programme’s website: <http://www.ilo.org/public/english/protection/condtrav/database/index.htm> or from the Australian Council of Trade Unions (ACTU) web side, <http://www.actu.asn.au/public/papers/matleave>. Valuable information was also taken from the ILO Report *Social Security in Fiji, Kiribati, Samoa, Solomon Islands and Vanuatu: Extending Maternity Protection in Pacific Island Countries*, ILO Suva, Fiji, 2006.*

The author of this Report is Ms. Ursula Kulke, Co-ordinator for Standards and Co-ordinator for Arab States, Social Security Department, ILO Geneva. Mr. Gilles Binet, Senior Actuary, Social Security Department, ILO Geneva compiled the calculations with the assistance of Mr. Charles Crevier, Junior Actuary, Social Security Department, ILO Geneva. The author wishes to acknowledge the guidance and continuous support provided by Ms. Mary Kawar, Senior Employment Specialist, Employment Department, ILO Geneva, who initiated this project with the Ministry of Labour of Jordan. Valuable comments were also provided by colleagues from the Social Security Department and the International Labour Standards Department of the ILO.² Ms. Ana Mendez, Social Security Department, ILO Geneva, provided administrative support.

This report is the result of a joint effort between the Government of Jordan and the ILO Social Security Department who provided technical assistance and the ILO Regional Office for Arab States who financed the missions of Ms. Kulke.

¹ The documents “Social Security Programs Throughout the World” are published by the Social Security Administration of the USA, Office of Policy, Office of Research, Evaluation, and Statistics, and the International Social Security Association, Geneva.

² Krzysztof Hagemeyer, Policy Co-ordinator, and John Woodall, Co-ordinator for Asia, both Social Security Department, ILO Geneva, and Kroum Markov, Legal Officer, International Labour Standards Department, ILO Geneva.

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The Director-General of the ILO wishes to extend his appreciation to H. E. Dr. Basem Khalil Al Salem, Minister of Labour of the Hashemite Kingdom of Jordan, for the cooperation of the Ministry in providing information to the ILO. Ms. Etaf Halasseh, Director of the Working Women Department, Ministry of Labour, and her staff provided invaluable and timely assistance during the ILO mission as well as during the preparation of the Report. Special thanks are extended to Dr. Omar Al-Razzaz, Director General of the Social Security Corporation Jordan, and his team, for providing the necessary data to support the actuarial projections.

Executive Summary

At present, the Jordanian Labour Code provides for the full cost of paid maternity leave to be borne by employers. It has been noticed that such a provision leads to the adoption by some employers of discriminating employment practices against female workers, based on the fact that the employer has to pay the cost of their maternity pay. There is no similar cost when employing male workers. Accordingly, the Government is considering alternative methods for the financing of prescribed paid maternity leave periods.

This Report looks at the feasibility of implementing a maternity cash benefits scheme and thus extending the effective scope of the current social insurance programme in the Hashemite Kingdom of Jordan, in accordance with existing legal commitments. The Report focuses on the nature and coverage of paid maternity leave. Based on consultations with Jordanian stakeholders (Ministry of Labour, Ministry of Finance, Social Security Corporation and the Advisory Committee to the Working Women's Department of the Ministry of Labour, Employers' and Workers' Organisations) and taking into account the relevant maternity protection provisions under the current Labour Code, it aims at providing a sound basis for decision making regarding the establishment of a fair and affordable maternity protection scheme in Jordan.

Part I discusses the purpose of maternity cash benefits schemes and examines the advantages of such schemes for women workers, labour markets and societies as a whole. In this respect, the differences between maternity cash benefits schemes provided through social security and individual employers' liability schemes are examined. The nature and coverage of maternity cash benefits schemes in general are discussed, and a comprehensive overview provided of relevant policies in countries all over the world. Although, self-evidently, women alone can receive benefits payable from such a scheme, it is considered important that coverage, and therefore contributions, should be attributed alike to men and women members of the general social security system. This is for several reasons, one of which is the recognition of childbearing as an investment on behalf of the *society as a whole* in its future human capital; another is the need to ensure that contribution liabilities do not in themselves offer a reason to discriminate between women and men in employment opportunities. This Part includes a brief commentary on international best practices and describes the international Conventions adopted in this field, mainly comprised of the ILO Social Security (Minimum Standards) Convention (No. 102)³ and the ILO Maternity Protection Convention, 2000 (No. 183).⁴

Part II looks at the present situation in Jordan, in particular with regard to existing paid maternity leave provisions, existing social security provisions and their administration, and further provides an in-depth analysis of the possibilities for establishing a new maternity cash benefits scheme in Jordan. It examines different options relating to the coverage of the new scheme, different possibilities regarding the length of the maternity leave period

³ As of January 2007, Convention No. 102 was ratified by 42 countries: Albania, Austria, Barbados, Belgium, Bolivia, Bosnia and Herzegovina, Democratic Republic of the Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Libyan Arab Jamahiriya, Luxembourg, The former Yugoslav Republic of Macedonia, Mauritania, Mexico, Netherlands, Niger, Norway, Peru, Poland, Portugal, Senegal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, Bolivarian Republic of Venezuela.

⁴ Convention No. 183 was ratified by 13 countries: Albania, Austria, Belarus, Belize, Bulgaria, Cuba, Cyprus, Hungary, Italy, Lithuania, Republic of Moldova, Romania and Slovakia. In addition, there are 40 countries which have ratified Convention No. 103, but not yet Convention No. 183.

and the amount of cash benefit, as well as qualifying conditions and conditions for entitlement to the maternity cash benefit, taking into account the national context of Jordan as well as international standards and best practices worldwide. In addition, the most advantageous option for administering the proposed new maternity cash benefits scheme is identified.

Part II further provides cost estimates for the establishment of the proposed new maternity cash benefits scheme, according to five different membership scenarios, and two possible benefit periods (10 weeks and 12 weeks), addressing the various coverage options available, which relate to:

- (A) coverage of all employees covered by the current Labour Code;
- (B) coverage of all employees covered by Social Security Law No. 19 (2001), with the exclusion of Government employees⁵;
- (C) coverage of all employees covered by the current Labour Code and all Government employees;
- (D) coverage of all employees covered by Social Security Law No. 19 (2001), and all Government employees, and
- (E) coverage of all employees covered by Social Security Law No. 19 (2001), including all Government employees covered by Law No. 19 (2001).

Cost projections have been made for each of these scenarios, and for the two possible benefit periods of 10 and 12 weeks. Out of these scenarios, *Scenario E with a benefit period of 12 weeks is favoured by the ILO for implementation purposes and in conformity with the requirements of Convention No. 102. This option also appears to be preferred by the Jordanian stakeholders.* On this basis, from its outset (which it is assumed will be in 2008), *coverage would be extended to approximately 705,600 private sector and Government employees, out of which approximately 180,486 would be female employees.* The cost projections for *Scenario E*, based on a benefit period of 12 weeks, indicate that the costs could be met in the first year by a total net contribution rate of 0.67 per cent of employees' gross earnings, to be divided in the ratio 2:1 between employers and employees.

Covered Population – Covered Women under Scenario E

The coverage projections for *Scenario E* indicate that the proposed new scheme would cover from its outset (2008), approximately 705,600 employees and civil servants, out of which approximately 180,500 would be female employees and female civil servants.

Cost Projections for Scenario E with a Benefit Period of 12 Weeks

The cost projections for *Scenario E*, based on a benefit period of 12 weeks, indicate that the costs could be met in the first year by a total net contribution rate of approximately 0.67 per cent of employees' gross earnings, to be divided in the ratio 2:1 between employers and employees.

However, reflecting its deep commitment to social security coverage of all workers, the ILO would encourage the Government to progressively extend coverage under the new

⁵ Government employees in this context include all civil servants and military personnel.

maternity cash benefits scheme to all employees working in enterprises with less than five employees. The provision of maternity cash benefits to all female employees in those enterprises represents an important incentive for employers of small enterprises, even in difficult conditions, to hire young women as they will not have to bear the costs of wage replacement during their female employees' maternity leave period. Such initiative will thus constitute an important step to combat discrimination between men and women at the workplace. The extension of maternity cash benefits to enterprises with less than five employees should preferably be carried out in the context of extending the general coverage of Social Security Law No. 19 (2001) to such small enterprises.

In view of the above, the Report concludes that the introduction of a maternity cash benefits scheme in Jordan, for all those employed women and Government employees covered by Social Security Law No. 19 (2001) appears to be feasible and financially sustainable, while conforming with the relevant ILO social security Conventions (in particular Convention No. 102) and worldwide best practices.

Annex 1 presents an overview of policies governing maternity cash benefits schemes of representative countries from the different world regions. Annex 2 sets out the costing methodology and provides a detailed estimate of the indicative costs of maternity cash benefits in Jordan, based on a calculation model developed for such purposes.

It should be pointed out that the demographic and financial results presented in the present report must be interpreted with great care in view of the inherent uncertainties contained in the database used to make such calculations. As the present report deals with the setting up of a new scheme and possibly new population groups to be targeted, there is an obvious lack of reliable data to base the ILO projections on. The financial calculations should be revisited at least one year after the inception of the new scheme and a proper database should be developed as the experience unfolds.

Lastly, it should also be emphasised that all issues raised in this Report need to be carefully analysed, discussed and agreed upon by the Jordanian stakeholders. The ILO is well prepared to assist the Government in the future development of the proposed maternity cash benefits scheme, in particular through detailed costing of the scheme, drafting of relevant legislation or amendment and revision of existing legislation and the implementation of the administrative processes.

Establishing a Maternity Cash Benefits Scheme in the Hashemite Kingdom of Jordan

Part I. The Nature of Maternity Cash Benefits Schemes

1. General information on maternity cash benefits schemes and ILO Conventions and Recommendations

1.1 Introduction

Maternity protection schemes are recognized as an essential prerequisite for the achievement of women's rights and gender equality, with the right to maternity protection enshrined in International Human Rights Instruments, (e.g. International Covenant on Economic, Social and Cultural Rights, 1966), in International Labour Conventions (e.g. Conventions No. 3, No. 102, No. 103, No. 183) and in the national legislation of most countries around the world. In 1975, ILO member States adopted a Declaration on Equality of Opportunity and Treatment for Women Workers expressing the belief that equality of opportunity and treatment of women requires the elimination of maternity as a source of discrimination and the protection of employment during pregnancy and maternity. Furthermore, in 2004 at the 92nd International Labour Conference, ILO member States adopted a resolution calling on all governments and social partners to, among other objectives, provide all employed women with access to maternity protection, to develop gender sensitive social security schemes, and to promote measures to better reconcile work and family life. Maternity protection in employment is also an important cornerstone to achieving Millennium Development Goals 3 (Gender Equality), 4 (Reducing Child Mortality) and 5 (Improving Maternal Health).

Maternity leave supported with cash benefits is one of the crucial elements of maternity protection. The global consensus on the importance of paid maternity leave is reflected in the fact that some maternity provisions exist in the legislation of virtually all countries. All developed countries and many developing countries have in place maternity insurance schemes designed to cater for the needs of women workers who give birth to children. Children represent the future for any nation and therefore the financial support of women during their maternity leave period should be seen as a worthwhile investment for society.

The recent period has seen some increases in maternity benefit schemes, especially in the adoption of provisions for maternity and parental leave in a number of developed countries. Currently the most extensive coverage of maternity cash benefits schemes is mainly found in European and Central Asian countries and in the Americas.⁶ In the Arab region, however, developments in maternity benefits schemes have tended to lag behind changes elsewhere.

The data referred to in this Report are the latest available from Social Security Programs Throughout the World, and the 2005 ILO publication *Maternity at Work* or from national social security websites. In some cases, the national programme details may have changed from the time the material cited in this Report was made available.

⁶ Reference to those regions is based on the ILO regional administrative structure.

1.2 Objectives of maternity cash benefits schemes

The need for cash maternity benefit has been recognized by all ILO member States. Cash benefits provided during maternity leave are intended to replace a portion or all of the income lost due to the interruption of the woman's professional activity. Without such financial support, the woman's loss of earnings during her absence on leave, coupled with increased expenditures associated with pregnancy and birth, would pose financial hardship for many families. Under those conditions, women might feel compelled to return to work before their entitlement to leave was exhausted and, sometimes, before it was medically advisable to do so. Cash maternity benefit is thus an indispensable means of protecting the health of any woman-wage earner and her child. The mother's right to a period of rest before and after delivery with the adequate financial support, together with the guarantee of being able to resume work after the break are necessary tools for the reconciliation of women's work and family responsibilities. The main characteristics of maternity cash benefit schemes may thus be summarized as follows:

- the provision of a period of leave from paid employment for mothers to move through the later stages of pregnancy and to recover from childbirth and to look after the baby;
- the provision of income replacement for the period of such leave, and
- the protection of the employment of the women workers concerned and the guarantee that the same job or an equivalent job can be resumed on return from maternity leave.

1.3 Maternity cash benefits schemes versus employer liability schemes

Maternity cash benefits schemes provide income replacement during the maternity leave period provided by social insurance schemes and financed through insurance contributions or general revenues or a combination of both. Employer liability schemes, on the contrary, oblige individual employers to directly pay wage replacement during the maternity leave period.⁷

According to worldwide experience, employer liability schemes often work against the interests of women workers, as employers may then be reluctant to hire women who may become pregnant, or who are pregnant, or may seek to find reasons to discharge pregnant employees in order to avoid the costs of paying the wage replacement during the maternity leave period. Also, compliance with individual employer liability schemes is often problematic, particularly in developing countries, where employers often do not pay the wage replacement and the legislation is not enforced. Individual employers' liability can also impose an excessive cost on small enterprises struggling for survival. In this respect, employers' liability schemes have since long been viewed as detrimental to the promotion of equal treatment for men and women in the labour market.

Instead of employers' liability, the ILO promotes maternity cash benefits schemes based on solidarity and on the pooling of responsibility through the use of public funds or insurance contributions. Children represent the future for any nation and therefore the

⁷ In some countries, facilities may exist for enterprises to manage, to some degree, their potential costs under employers' liability through commercial insurance schemes. In the view of the ILO, this approach is greatly inferior to provision through social insurance, due to the limited application of the principle of solidarity underlying the pooling of risk.

financial support of women during their maternity leave period should be seen as a worthwhile investment for society. Therefore, the Report will focus only on maternity cash benefits schemes provided through social security and not on employers' liability schemes.

While the labour legislation of many countries initially required employers to grant paid maternity leave, ILO member States have made considerable progress in providing maternity cash benefits to employed women financed through social security contributions or general tax revenues or both. Research⁸ in this regard shows that in 91 out of 160 ILO member States maternity cash benefits are provided through social insurance schemes or out of public funds. In 43 countries, they still fall on the expense of employers and in 26 countries, there is a mixed system, in which the responsibility for financing maternity cash benefits is shared between social security and individual employers. Responsibility of individual employers for the provision of maternity cash benefits exists mainly in Africa and Asia, the Pacific and the Arab States, while in the Americas and the Caribbean the percentage of countries using only social insurance to finance the benefits is much higher. Europe is the region where the exclusive use of social security systems to finance cash maternity benefits is the most frequent.

1.4 ILO Conventions

Maternity protection for women has been a core issue for the member States of the ILO since its establishment in 1919. The first Convention on maternity protection was indeed adopted that same year, and has subsequently been followed by the adoption of two other Conventions: Convention No. 103 adopted in 1952 and, more recently, Convention No. 183, in 2000. The main purpose of these Conventions is to ensure that a female worker should be able to sustain and care for herself and her baby over the period immediately before and after her confinement and avoid that women suffer discrimination in employment based on maternity.

A consistent theme in all ILO maternity protection Conventions is to ensure that maternity cash benefits be provided through social insurance or other public funds. The basic principle of payment through social insurance or other public funds is very important to protect women from discrimination in the labour market, which could be more likely where employers are directly responsible for the costs of maternity. Convention No. 183 provides an exception to this principle, as it allows making employers liable for the payment of maternity cash benefit, but only in case where there has been an agreement to such effect between government, employers, and workers, or where individual employer liability was a pre-established component of national legislation.

Once the Conventions are ratified, their provisions become binding obligations for the ratifying country, and, if not ratified, they serve, together with the Recommendations, as guidelines for national policies and legislation. In this regard, irrespective of the economic, social and cultural development of any ILO member state, the provisions of the relevant Conventions should represent a minimum level for protection while ILO member States are encouraged to grant more favourable conditions according to their national circumstances.

⁸ Ida Oeun and Gloria Pardo Trujillo, *Maternity at work: A review of national legislation. Findings from the ILO's Conditions of Work and Employment Database*, pages 19, 20 and 21; ILO Geneva 2005.

1.4.1 Maternity Protection Conventions from the historical perspective

- The Maternity Protection Convention, 1919 (No. 3) is directed at women working in public or private commercial or industrial organisations. It lays down the main principles regarding maternity protection, which include entitlement of women to 12 weeks' maternity leave with cash benefits to ensure continuity of income, daily breaks for nursing, and protection against dismissal during leave. This Convention has, so far, been ratified by 33 States. In 1952, this Convention was revised by the Maternity Protection Convention (Revised), 1952 (No. 103) to take into consideration developments in national law and practice. Convention No. 103 also provides for 12 weeks of paid maternity leave, of which at least 6 weeks must take place after confinement.⁹ It extends coverage to women in non-industrial and agricultural occupations, including women wage earners working at home and domestic workers. It also establishes the minimum level as regards the cash benefits provided during the period of leave at no less than two-thirds of the woman's earnings, provided either by means of compulsory insurance or public funds but not by direct employers' liability. Medical benefits need to include pre-natal, confinement and post-natal care by a midwife or qualified medical practitioner, as well as hospitalisation if necessary. Convention No.103 also forbids dismissals during the period of maternity leave. It was ratified by 40 countries.
- The years since 1952 have seen dramatic changes, notably in the participation of women in the workforce, and an ever growing commitment to eliminate discrimination in employment. The most recent ILO instruments in this field have been adopted with a view to cope with such changes. The Maternity Protection Convention, 2000, (No. 183), which revises Convention No. 103, and the accompanying Maternity Protection Recommendation, 2000 (No. 191) constitute a new step forward both in terms of persons covered and protection provided. Convention No. 183 extends the minimum paid maternity leave period to 14 weeks, with a compulsory leave period of six weeks after the birth of the child.¹⁰ Moreover, the Convention broadens the right to maternity protection to all women workers, including those in atypical forms of dependent work. However, it does allow ratifying members, after consulting with the representative organisations of employers and workers concerned, to exclude wholly or partly from the protection limited categories of workers when its application to them would raise special problems of a substantial nature. The Convention also provides that the cash benefit shall be at a level that ensures that women can maintain themselves and their children in proper conditions of health with a suitable standard of living. The amount of such benefits shall not be less than two thirds of the woman's previous or insured earnings and should be provided preferably through compulsory social insurance or public funds.¹¹ Countries, whose economies and social security systems are insufficiently developed, may however set lower rates for maternity benefits but not lower than the rates payable for sickness or temporary disability. Furthermore, the right to cash benefits may be made subject to conditions if such conditions can be satisfied by a large majority of the protected women. For women, who do not qualify for the cash benefit, the Convention provides for a means-tested allowance to be paid

⁹ Convention No. 103 was adopted concomitantly with Recommendation No. 95 on Maternity Protection, 1952.

¹⁰ A shorter period may however be determined at the national level by the Government and the representative organizations of employers and workers.

¹¹ Employers' liability for the cost of maternity benefits being only accepted under certain conditions.

out of public funds. The Convention also calls for special health protection measures directed to pregnant and breastfeeding women workers and makes explicit their right not to be discriminated against on grounds related to the pregnancy or birth of the child and its consequences or nursing. So far, this convention has been ratified by 13 countries.

Ultimately, it should be observed that the adoption of Convention No. 183 in 2000 constituted a new step forward and implied the closure of Convention No. 103 to future ratifications. Nevertheless, for countries which are not yet ready to ratify Convention No. 183, Convention No. 3 in conjunction with Convention No. 102 (see also below) represents a suitable level of commitment.

1.4.2 Social Security Conventions covering maternity cash benefits

- In parallel with the adoption of comprehensive instruments focused on maternity protection, the ILO has adopted several social security conventions some of which also contain maternity related provisions. The focus is then placed only on the benefits received by the covered persons rather than their leave entitlement or their right to employment protection during such leave. The Social Security (Minimum Standards) Convention No. 102, which was adopted the same year as Convention No.103, is an example in this respect. It defines the nine branches of social security - among them, maternity - and sets minimum standards for these branches while Convention No.103, as regards maternity, sets the higher and more comprehensive standard. Convention No. 102 provides that coverage should be provided to either all women in prescribed classes of employees, which have to constitute at least 60 per cent of all employees, or to all women in prescribed classes of the economically active population which have to constitute at least 20 per cent of all residents. The Convention envisages the provision of maternity medical care and the provision of cash benefits for at least 12 weeks. Medical benefits must include at least pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives, and hospitalization where necessary. The cash benefit must correspond to at least 45 per cent of the former earnings of the woman worker. The Convention also envisages that entitlement to cash benefit may be made subject to a qualifying period as considered necessary under national circumstances to preclude abuse. The determination of the length of such a period is left to national authorities.

In this Report, reference is made to Conventions No. 102 (as the minimum standard for benefits) and No. 183 (as the higher and comprehensive standard), as these are the relevant up-to-date Conventions corresponding to the needs of today.

2. General practices and worldwide policies covering maternity cash benefits schemes

2.1 Coverage of the schemes

The vast majority of maternity cash benefits schemes usually relate to the nature of the national social security system in each country and its financing methods. Most maternity protection schemes all over the world are financed through social insurance contributions (see, for example, Algeria, Argentina, Barbados, Bolivia, Chile, Cyprus, Egypt, France, Greece, Italy, Lithuania, Luxembourg, Mexico, Morocco, Namibia, Peru, Philippines, Portugal, Spain, Tunisia and Turkey), which form part of the statutory national social security system established in the country concerned. Maternity cash benefits schemes often cover the same categories of workers as the other schemes forming part of the statutory national social security system. In general, they cover compulsorily all employees or certain categories of employees in the formal economy.

Some countries also cover self-employed workers mandatorily in the statutory maternity benefits scheme (e.g. Belize, Cyprus and Portugal) and others cover those workers only on a voluntary basis (e.g. Mexico). However, statutory social insurance systems may also exclude some categories of workers from coverage and consequently, those categories of workers do not benefit from the maternity benefits scheme. A large number of countries, for example, exclude civil servants from the statutory scheme, but cover them through a special scheme (e.g. Japan, Mexico, Morocco, the Philippines, Tunisia and Uruguay). In many countries, domestic workers (e.g. Argentina, Greece, the Philippines and Venezuela), agricultural workers (e.g. Bolivia, Egypt and Sudan) and casual workers (e.g. Panama) are excluded from the statutory scheme due to obstacles arising out of their registration and the collection of contributions. There are also some countries where only employees of enterprises with more than a specified number of employees are covered, or where coverage is restricted only to certain industries or geographic areas.

In some countries, maternity benefits schemes are financed out of general revenues (taxes) and coverage is extended to all those women residents, whose income or whose family income is below certain established income or means (e.g. New Zealand).

ILO Conventions

Article 48 (a) and (b) of *Convention No. 102* provides that either

- (a) All women workers belonging to prescribed classes of employees which classes constitute at least 50 per cent of all employees are covered by the maternity protection scheme in the country concerned, or
- (b) All women workers in prescribed classes of the economically population, which classes constitute not less than 20% of all residents are covered in case of maternity.

Article 2 of *Convention No. 183*, in contrast, requires maternity protection coverage to be extended to all employed women, including those in atypical forms of dependent work. However, under certain conditions, countries may exclude wholly or partly limited categories of workers from the scope of the Convention when its application to them would raise special problems of a substantial nature.

ILO Resolutions

ILO member States adopted in 1985 a resolution requesting that priority consideration should be given to women, as appropriate to national circumstances, to the gradual extension of maternity protection in all sectors of activity and enterprises of all sizes, including women who are casual, temporary, part-time, sub-contract and home-based workers as well as self-employed and family workers (Resolution on equal opportunities and equal treatment for men and women in employment, adopted by the International Labour Conference at its 71st Session, Geneva, 1985).

Furthermore, ILO member States adopted in 2004 a resolution calling on all governments and social partners to, among other objectives, provide all employed women with access to maternity protection (Resolution concerning the Promotion of Gender Equality, Pay Equity and Maternity Protection, adopted by the International Labour Conference at its 92nd Session, Geneva, 2004).

2.2 Qualifying conditions

Nearly all countries which have maternity cash benefits schemes in place introduce at least some specific qualifying conditions for the entitlement to maternity cash benefit. In social insurance schemes, such qualifying conditions are usually linked to periods of employment or contributions, while in schemes financed out of general revenues qualifying conditions are sometimes linked to periods of residency. Most countries regard such qualifying conditions as necessary to make the scheme financially sustainable and to prevent abuse. Therefore, they want to ensure that all beneficiaries make a minimum contribution to the scheme before they are entitled to the benefit. Allowing immediate entitlement to benefits, without any qualifying conditions, may allow people to destabilize the scheme by affiliating to it only in case of pregnancy. Qualifying conditions can be as follows:

- In Egypt, for example, a woman claiming cash maternity benefit must have paid contributions for the last 10 months before the expected date of childbirth, while in Morocco, a woman needs 54 days of contributions during the 10 months preceding the expected childbirth. In Cyprus, a woman has to be insured for at least 26 weeks before the starting date of the maternity cash benefit. Entitlement to cash maternity benefit in Greece requires that a woman has worked for at least 200 days in insured employment during the last two years before the expected date of childbirth. In Peru, however, it is sufficient for a woman to have been in insured employment at the time the child was conceived. Italy requires only that the woman has an employment contract of at least three months, while Vietnam does not require any qualifying conditions apart from insurance coverage.

ILO Conventions

Article 51 of *Convention No. 102* allows the setting of a qualifying period which, however, must not be longer than such period which is considered by the national authorities as necessary to preclude abuse. In this regard, a qualifying period of up to one year of contributions or employment would be in accordance with the requirements of the Convention.

Article 6 of *Convention No. 183* requires that the conditions set to qualify for cash maternity benefit should be such that they can be satisfied by a large majority of the women to whom the Convention applies.

2.3 Entitlement conditions

Beside prescribed qualifying conditions, many countries require compliance with further conditions for the entitlement to cash maternity benefits, as summarized below:

- Nearly all countries over the world require as a condition for entitlement to cash benefit a medical certificate which lays down the expected date of the birth.

- In most countries worldwide, the claimant must stop paid employment for the period during which cash maternity benefit is claimed, consistent with international standards. In cases where a woman voluntarily returns earlier to paid work, the payment of cash benefits ceases as of the date at which work is resumed.
- In some countries, contrary to international standards, the number of times a woman can claim cash maternity benefits is limited and sometimes leave is granted only once during a certain period. The former is the case in Egypt, where a worker may not obtain cash maternity benefits more than three times throughout the period of employment, and in Barbados, where women cannot take maternity leave more than three times while working for the same employer. In the Philippines, the entitlement to cash maternity benefit is limited to a maximum of four deliveries.

ILO Conventions

According to Article 47 of *Convention No. 102*, the contingency of maternity benefit covers suspension of earnings due to pregnancy and confinement and their consequences. This means that the benefit may not be paid if the woman concerned is in receipt of her salary or wage. Neither *Convention No. 102*, nor *Convention No. 183* prohibit, that a women returns to work before the termination of the statutory leave period (12 weeks under *Convention No. 102* and 14 weeks under *Convention No. 183*), as long as the compulsory post-natal leave period (6 weeks under *Convention No. 183*) is respected. However, it is strongly recommended for the health of the mother that she completes the full period of statutory maternity leave. The ILO Committee of Experts on the Application of Conventions and Recommendations has also considered that maternity protection Conventions do not authorize limitations to the right to maternity protection based for example on the number of children.

2.4 Periods of compulsory maternity leave

Most countries which have maternity protection schemes in place, provide maternity cash benefits for a leave period of at least 12 to 14 weeks. Although there are many variations regarding the duration of compulsory leave period and how it is distributed before and after childbirth, it is most common to provide for six weeks' compulsory leave after childbirth, in order to protect women from being pressured to return to work which could be detrimental for her health and that of the child. In addition, national legislation often provides for different unexpected circumstances which can extend the duration of maternity leave, such as multiple births, illness or birth which occurs earlier or later than the expected date. Some countries also provide for a reduced maternity leave period in case of adoption of a child. Predominant characteristics of maternity leave provisions worldwide can be summarized as follows:

- Honduras, Mexico and Uruguay, for example, provide for a paid maternity leave period of 12 weeks, as prescribed by *Convention No. 102*, with six weeks before and six weeks after the expected date of childbirth.
- An increasing number of countries have moved up to a leave period of 14 weeks, as set out in *Convention No. 183* (e.g. Algeria, Belize and Morocco). Several countries provide for longer periods of leave: Cyprus, France, Italy and Turkey provide for a leave period of 16 weeks, Vietnam provides for a paid maternity leave period of 120 days, Lithuania a period of 18 weeks and some countries in Europe provide even more than 20 weeks of paid maternity leave, e.g. Russia provides 22 weeks, Hungary provides 24 weeks, Czech Republic and Denmark and Slovak Republic provide 28 weeks, Croatia provides 31 weeks, Portugal provides 34 weeks, Norway provides up to 42 weeks and Sweden provides even up to 55 weeks.
- Some countries have introduced a tiered approach to maternity leave. An initial period may be paid, and then a second part unpaid. Greece provides paid maternity leave for 17 weeks, but there after unpaid leave for up to 3.5 months for each parent.

- Several ILO member States provide for an extension of the prenatal leave period if the child is born after the expected date (e.g. Barbados and Uruguay), while others extend the postnatal leave if the birth occurs before the due date (e.g. Nicaragua). Some countries provide for extended prenatal and postnatal leave (e.g. Venezuela) in the case of a longer or shorter pregnancy than was foreseen.
- As mentioned before, a number of countries also provide for additional leave in case of illness or complications, although the length varies significantly. In some countries, the length is not specified in the national legislation (e.g. Bolivia, Chile and the Dominican Republic), while in some countries the duration is set explicitly, e.g. in Barbados, where an employee is entitled to an additional six weeks of leave for illness arising from the birth, and in Senegal, where women workers may take three weeks of leave on medical grounds arising from pregnancy and confinement.
- In addition, some ILO member States have special provisions in case of multiple births; for example Belgium, where maternity is extended by two weeks before the birth and Nicaragua, where extension is provided by two weeks after birth.
- Some developed countries also extend maternity leave to cases of adoption of children (e.g. France) and some (e.g. Italy and France) also provide for a period of paid parental leave for either parent. In some other countries, a specified small portion of the maternity leave is reserved for the father, which is usually attributed to the father at the end of the mother's total maternity leave entitlement (e.g. Norway and Poland).

ILO Conventions

Article 52 of *Convention No. 102* prescribes a paid maternity leave period of at least 12 weeks (Article 52), while *Convention No. 183* lays down a period of at least 14 weeks of paid maternity leave (Article 4), which has to include a compulsory leave period of six weeks after the birth of the child.

Furthermore, Article 52 of *Convention No. 102* prescribes that if a longer period of abstention from work is required or authorised by national laws or regulations, the paid leave period may not be limited to a period less than such longer period. And Article 5 of *Convention No. 183* stipulates that on production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

2.5 Level of paid maternity leave benefits

Maternity cash benefits provided during maternity leave are intended to replace a portion of the income lost due to the interruption of the woman's professional activity. Cash benefits give substance to the right to leave, and, as a general rule, the duration of cash benefits coincides with the length of leave, although this is not always the case. There is a fairly wide degree of divergence in the level of maternity cash benefits. In many countries, the cash benefit is linked to the insurable wage of woman workers, with the insurable wage being usually the wage upon which social security contributions have been paid for a specified period. The insurable wage can be either the full usual wage or a portion of the usual wage, which is determined as liable for insurance contributions. The benefit paid can be either as the full insurable wage or a proportion of it.

- A number of countries, particularly in Europe provide for 100 per cent of the *covered salary*. Examples include Austria, Belarus, Croatia, Denmark, Estonia, France, Latvia, Luxembourg, Norway, Poland, Portugal, Spain, and Russia. 100 per cent is also paid in Algeria, Argentina, Barbados, Brazil, Guatemala, Mexico, Morocco, Panama, Peru, Uruguay and Vietnam, amongst others. However, in some countries there are ceilings on the insurable earnings and/or ceilings on the

maximum amount of benefits with the consequence that the benefit, even if it represents 100 per cent of the former earnings, it is capped at a specified level, so that very high-income earners receive a benefit which is less than 100 per cent of their former earnings. A maximum on the benefit paid can be found, for example, in Belgium, Cyprus, Czech Republic, Denmark, Egypt, France, Greece, Ireland, Honduras, Luxembourg, Mexico, Morocco, Peru, Slovakia, Sweden and Tunisia.

- In some other countries a proportion of usual wage or the insurable wage is paid. In Bulgaria the cash benefit amounts to 90 per cent of the former wage, while in Belize, Italy and Sweden it amounts to 80 per cent, and in Cyprus and Egypt, to 75 per cent. In Hungary and Ireland, the benefit is 70 per cent of the former wage, whereas in Honduras, Tunisia and Turkey, it is 66 per cent, and in Finland, 65 per cent. In Japan, it amounts to 60 per cent and in Costa Rica and Greece, to 50 per cent. In the Caribbean countries, most replacement ratios range from 60 per cent as in Trinidad and Tobago to 70 per cent in Guyana.
- In a few countries, cash benefits are set at staggered rates: in Belgium the payment is set at 82 per cent of the covered wage for the first 4 weeks of leave, and thereafter at 72 per cent. Grenada pays a benefit of 100 per cent of the former wage for the first two months of leave, but 60 per cent for the last month.
- Many countries have set a minimum benefit, e.g. as Finland, Grenada, Ireland, Mexico, Portugal and the United Kingdom.
- In some countries, the benefit is a flat-rate benefit set at a certain amount, e.g. in Jamaica where the maternity cash benefit is set at the minimum wage.

ILO Conventions

According to Article 65 of *Convention No. 102*, the minimum maternity cash benefits have to amount to at least 45% of the former wage, when the benefit is linked to former wages/earnings, while they have to amount to at least 45% of the wage of an unskilled worker, when the benefits represent a flat amount (Article 66 of *Convention No. 102*).

According to Article 6 of *Convention No. 183*, maternity cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. Where, under national law or practice, cash benefits paid with respect to maternity leave are based on previous wages/earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous wage/earnings or of such of those wage/earnings as are taken into account for the purpose of computing benefits.

Regarding the issue of insurable wage, the up-to-date ILO Conventions on maternity protection do not specifically define the covered wage to which the minimum proportion applies.

2.6 Frequency of payment

Most maternity cash benefits schemes worldwide provide for a benefit payment mechanism following the same frequency of payment as salaries and wages. Generally, such benefit payment is made on a monthly basis. In some countries, however, the cash benefit for maternity leave is paid in the form of a lump sum. This can have the undesirable effect of allowing women to return to work before the end of the maternity leave period and therefore to receive their salary in addition to the maternity cash benefit. In the ILO's view, this practice undermines the health principles underlying maternity leave and contributes to public perceptions that maternity leave is not really so necessary or important.

ILO Conventions

Article 50 of *Convention No. 102* prescribes that the maternity cash benefit should consist of a periodical payment. However, the periodicity of the payment is not stipulated in the Convention and is thus left to countries to provide for it according to national legislation and practice.

Convention No. 183 is silent on this issue.

2.7 Who pays

There are a number of different payment arrangements for funding maternity cash benefits, which usually reflect the funding arrangements applying to the national social security systems in the countries concerned. In practice, the costs may be borne by employers, the insured persons, and/or by the government, either through social security contributions or through general tax revenues. Within this context, it should be noted that, in cases where schemes are financed by insurance contributions, those contributions are usually funded by both employers and workers of both sexes and without distinction as to age. This funding mechanism applies also to maternity cash benefits schemes and is a direct expression of the principle of solidarity between sexes and between age groups.

The predominant funding mechanisms of maternity cash benefits schemes can be summarized as follows:

- Shared contributions between employers and employees to jointly fund maternity insurance are the most common pattern in the great majority of countries, both developed and developing, e.g. in Algeria, Belize, Cyprus, Greece, France, Lithuania, Morocco and Tunisia. In many of these countries, the contributions for maternity cash benefits are included in the contributions covering health and/or sickness insurance, e.g. in Egypt, Italy, Japan, Lithuania, Mexico, Morocco, Peru and Russia, or are included in the overall contributions covering all social insurance branches of a national social security scheme, e.g. in Cyprus, France, Philippines and Tunisia.
- In many countries, the Government shares some of the costs with the employers and employees. In Belize, France and Lithuania for example, the Government provides subsidies in order to cover any deficit, while in the Philippines and Tunisia, the Government is held responsible for the payment of the administrative costs. In other countries, the Government contributes to the scheme by providing a global amount, e.g. in Cyprus, Greece and Japan.
- Tripartite funding of maternity insurance schemes through contributions paid by employers, employees and the Government are very rare but can be found in certain countries, e.g. in Honduras, Mexico and Thailand.
- Maternity insurance schemes exclusively funded by employers' contributions are also rare, but can still be found in countries such as Italy, Peru, Russia and Turkey.
- In a small number of countries, the Government funds the costs for paid maternity leave out of taxation. This pattern of financing can be found in Uruguay and New Zealand, for example.
- In a number of countries, maternity benefits provided by a public welfare system are used to supplement those funded by social insurance. They may be granted to workers who have no right to social insurance or may be added to social insurance benefits to extend protection. This is the case, amongst others, in Austria, Denmark, Finland, France, Germany, Luxembourg, Netherlands, Norway, Poland and Sweden.

ILO Conventions

According to Article 71 of *Convention No. 102*, the cost of the benefits and the cost of the administration of such benefits shall be born collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of few means and takes into account the economic situation of the Member State and of the classes of persons protected. It further prescribes that the total of the insurance contributions born by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children.

In this respect, Article 6, paragraph 8 of *Convention No. 183* lays down that, in order to protect the situation of women in the labour market, maternity benefits shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. It also stipulates that an employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:

- (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
- (b) it is subsequently agreed at the national level by the Government and the representative organizations of employers and workers.

In addition, paragraph 4 of Recommendation No. 191 advocates that contributions should be based on the total number of employees.

2.8 Cost of paid maternity leave

In general, maternity cash benefits represent a relatively low percentage of total social security costs in countries where these schemes are established. For example, in Italy, where a maternity cash benefit of 80 per cent of the previous wage is paid for 4 months, the costs of those benefits amounts to 0.46 per cent of the earnings of blue and white collar workers and 0.24 per cent of the earnings of employees in commerce and the service sector. This is a rather low figure relative to other countries, reflecting the low proportion of eligible births, and the wage replacement ratio of 80 per cent for women workers on paid maternity leave in Italy. However, nearly all maternity cash benefits schemes worldwide cost less than 0.7 per cent of salary or wage earnings. In this regard, it should be pointed out that these contribution rates represent a very low percentage not only in comparison to contribution rates of other social security branches such as pensions, but also in view of the medium- and long-term advantages which maternity cash benefits provide to societies.

To calculate the costs of maternity cash benefits, a number of factors need to be taken into account. These include:

- *The average number of qualifying births per covered woman.* This is usually low in developed countries, partly because of low birth rates, but also because many women withdraw from paid employment for a period after the birth of their first child and do not return to paid employment before subsequent births. Hence many second or subsequent births do not qualify for paid maternity leave. For example in New Zealand only around 30 per cent of births qualify the mothers for paid maternity leave, due to temporary withdrawal from the labour market even though most women workers in New Zealand are employed in the formal economy. This pattern however varies by country. Countries with high provision of childcare facilities such as the Scandinavian countries are likely to see more mothers return to work between childbirths, and hence a higher percentage of qualifying births.
- *The proportion of women in the covered population (covered employees).* The costs of maternity leave are spread across both women and men workers, and hence the lower the proportion of women in child bearing age in the paid workforce, the lower the comparative cost.

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- *The ratio of the earnings of women qualifying for maternity leave to average earnings.* In most countries women on average still earn less than men, and this effect may be reinforced if women taking maternity leave are younger and more junior in pay status than women workers as a whole. Whatever other problems this disparity creates, it has the technical effect of lowering the cost of maternity cash benefits where these are linked to previous wages/earnings.
 - *The ratio of maternity cash benefit to the insurable wage/earnings for the woman concerned.* As described above (see Chapter 1.9), the level of the maternity cash benefits varies considerably across countries all around the world. In some countries, it is 100 per cent, while in other countries, it even falls below 70 per cent. In this respect, ILO Conventions Nos. 102 and 183 establish the minimum level of benefits at, respectively, 45 and 66 per cent.
 - *The period of paid maternity leave.* The longer the period of paid maternity leave, the higher the costs of financing the benefits. However, it should be noted that payment of maternity cash benefits for 12 weeks represents the minimum period required by Convention No. 102 and thus, any maternity leave period should not be shorter than that minimum.
 - *Administrative costs also affect the level of overall costs of paid maternity leave.* In countries where social security systems are in place, maternity protection schemes are usually part of these systems, and thus, are administered by the national social security institution. This tends to reduce the incremental administrative costs, as these institutions already have in place the mechanisms for the registration of employers and insured persons, for the collection of contributions and for the payment of benefits. Therefore, additional administrative costs for administering maternity cash benefits schemes mainly relate to the payment of staff responsible for the processing of claims and to information campaigns. Some small costs arise also through the separate accounting of contributions and benefits and the establishment and maintenance of the appropriate database.

2.9 Institutional arrangement

In many countries where well established social security systems are in place, maternity benefit schemes usually form one part of the system that includes other branches of social security as well, such as pensions and short-term benefits. In most of these countries, the social security system is administered by an autonomous social security organisation, which is governed by a tripartite board of directors comprising representatives of relevant ministries and headed by the Minister of Labour or the Minister of Social Affairs. The organisation is responsible for administering the different social security schemes, which includes the collection of contributions from employers and employees, the processing of claims and the payment of benefits. In addition, it is often responsible for administering the different funds and for investing the assets. Within the social security system, maternity protection schemes are usually merged with other schemes for administrative convenience, often, however, with separate accountings for each scheme. Three patterns tend to predominate:

- In some countries, maternity cash benefits schemes are part of a wider social insurance system which also characteristically covers retirement, invalidity and survivors' pensions, sickness and employment injury benefits, and health care costs. This pattern can be found for example in Algeria, Belize, Cyprus, Russia and the Philippines.

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- In many countries, maternity medical care, maternity cash benefits and sickness benefit (and sometimes also work injury benefits) are part of one scheme, as it is the case in Egypt, Honduras, Japan, Morocco, Peru and Tunisia.
 - In a third group of countries, maternity cash benefits are administered in conjunction with cash sickness benefits and/or employment injury benefits while maternity medical costs are covered by the separate public or national health system. Greece, Lithuania, Mexico, Uruguay and Vietnam, amongst others, belong to this group of countries.

There are also some countries, where maternity cash benefits are funded from general taxation. In these countries, the maternity scheme is usually administered by the Inland Revenue Department, as it is the case, for example, in New Zealand.

ILO Conventions

Article 72 of *Convention No. 102* requires a tripartite administration of the scheme, if it is not entrusted to a specific Government Department or to a legislature, while *Convention No. 183* does not determine a specific mode for the administration of the scheme. However, social partners need to be consulted for matters such as the periodic review of the scheme; the exclusion of certain limited categories of workers for the scope of the convention; the determination of types of work prejudicial to the health of the mother and child or where there is significant risk; and authorizing the individual liability of employers for the direct cost of monetary benefits.

Part II. Issues regarding the Establishment of a Maternity Cash Benefits Scheme in Jordan

3. General considerations

3.1 Basis of the recommendations made by ILO

The ILO's recommendations concerning the establishment of a maternity cash benefits scheme in Jordan are based on:

- extensive consultations held with Jordanian stakeholders (Ministry of Labour, Ministry of Finance, Social Security Corporation and the Advisory Committee to the Working Women's Department of the Ministry of Labour, Employers' and Workers' Organisations);
- information and comments received from the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan upon submission of a first draft of the study in April 2007;
- the relevant maternity protection provisions under the current Labour Code and under the Social Security Law No. 19 (2001);
- international best practices, and
- the relevant ILO social security standards. As indicated in Part I of the Report, the most relevant ILO social security standards in respect of maternity cash benefits are Conventions No. 102 and No. 183. Convention No. 102 is the flagship of all up-to-date social security Conventions as it provides minimum standards for the nine branches of social security, including maternity benefits. It should thus be taken into account by all ILO member States when setting-up new social security schemes or reforming existing ones. Besides, Convention No. 183, which covers maternity protection exclusively, but in a comprehensive manner, provides for higher standards in this field. With regard to Jordan, which is in the process of moving from an employers' liability scheme to a maternity insurance scheme providing cash benefits, the standards set out in Convention No. 102 seem to be the most appropriate at this stage. It should be noted, however, that the standards of Convention No. 183 might serve as guidelines for the future development of the scheme.

The recommendations were formulated bearing in mind the need to achieve a balance between the different political concerns of the stakeholders involved in the process and the international standards and best practices, adapted to the national context. They represent the most politically acceptable solution in order to gain the widest support from all parties involved, which is needed in order to guarantee the well functioning of the scheme from the onset. On these grounds, they aim at providing a sound basis for decision-making regarding the establishment of a fair and affordable maternity protection scheme in Jordan.

3.2 Existing paid maternity leave provisions

At present, Jordanian legislation provides for paid maternity leave for Government and private sector employees, on an employers' liability basis.

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- According to section 70 of the Jordanian Labour Code, women employees shall be entitled to maternity leave with full pay for ten weeks, including rest before and after delivery. Leave after delivery shall be no less than six weeks and employment before the expiry of such period shall be prohibited. Government and municipal officials, family members of the employer who work without remuneration in his/her undertaking, domestic servants, gardeners, cooks and the like, and agricultural workers are excluded from the application of the Labour Code.
 - Public sector employees are entitled to a 12-weeks maternity leave period with full pay to be provided by the Government, including a compulsory leave period of six weeks after childbirth.
 - The Jordanian Social Security Law No. 19 (2001), which was adopted in 1978 and amended in 2001, covers, besides pensions and employment injury benefits, the “insurance of temporary disability due to maternity “(Section 3 a of Law No. 19 (2001)). While the old-age, invalidity and survivors’ benefits branch as well as the employment injury benefits branch were implemented subsequently to the adoption of Social Security Law No. 19 (2001), the implementation of the maternity cash benefits branch and its design¹² was foreseen to take place at a later stage (Section 6 of Law No. 19 (2001)). When Law No. 19 (2001) was adopted, the coverage of the different social security branches provided for in the Law comprised all private sector enterprises with 20 and more employees and has since then been extended in phases to all private sector enterprises with five or more employees. Furthermore, it is in the Government’s intention to extend social security coverage under Law No. 19 (2001) to all such enterprises with one or more employees. Since 1994, all civil servants who started service in 1994 or after are covered by Law No. 19 (2001), while as from 2003 all military personnel having started service in 2003 and after are covered by the Law. Domestic workers as well as agricultural and forest workers, sailors and fishers, workers with irregular employment relations and foreign employees of international, military and foreign missions are excluded from the application of Law No. 19 (2001).

¹² Lengths of maternity leave period, contribution rate, etc.

4. Policy Considerations

In this section, and the following paragraphs, we set out the main features of the design of the proposed scheme of maternity cash benefits, which have to be determined before the scheme can be implemented, together, where appropriate, with recommendations or indications as to which of the relevant choices are likely to lead to an optimal scheme design. In this regard, the major considerations to be taken into account include:

- the need to ensure that the scheme can achieve the goal of protecting the welfare of expectant and newly-delivered mothers, and their new-born children;
- the need to ensure that the scheme is affordable, in terms of the contributions which would be required from workers, employers and (possibly) the government;
- the desirability of designing the scheme in a way which progresses from the existing arrangements for maternity protection without unnecessarily disturbing the existing structure of the Labour Code, and the access of workers (in particular women workers) to the labour market;
- the views of the respective stakeholders as reflected, in particular, in the discussions held during the mission of the ILO team to Jordan and the comments received from the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan on the first draft of the report.

4.1 What kind of scheme: Insurance, financed through contributions, or universal, financed through general tax revenues?

One of the most basic issues regarding the establishment of a maternity cash benefits scheme in Jordan consists in determining whether the scheme should be a universal scheme financed through general taxation, or a social insurance scheme financed through social security contributions. The nature of the scheme should be decided at the beginning of the design of the scheme as this determines several other parameters, such as the personal coverage, the qualifying conditions and the administrative arrangements.

From the discussions held with stakeholders in October 2006, the establishment of a maternity insurance scheme financed out of contributions came out as the preferred option. This appears to be in conformity with the original vision of the Government when setting up the statutory social security scheme in 1978, as the insurance against temporary disability due to maternity was already included at that time in the Social Security Law No. 19 (2001). In addition, the social insurance system already in place in Jordan enjoys a high level of acceptance, and it seems appropriate to now extend this system to the implementation of the new maternity cash benefits scheme. The provision of the cash maternity benefit through social insurance fully complies with the relevant ILO maternity protection Conventions. Furthermore, the provision of maternity cash benefits through social insurance is in full conformity with international practice, as in most countries, such benefits are provided through statutory social security systems (see subchapter 2.9). Only very few countries differ, e.g. New Zealand, which provides maternity cash benefits through a universal tax financed scheme. In this context, however, it may be noted that in New Zealand, all social security benefits are provided through tax financed universal and social assistance schemes covering all residents.

ILO Recommendation

Based on the above considerations and in view of the national context, the ILO recommends the establishment of the new maternity cash benefits scheme by way of *social insurance*.

4.2 Who should be covered

In considering the personal coverage of the new maternity cash benefits scheme, the starting point is the recommendation that the proposed scheme should be implemented as a social insurance scheme. It is appropriate therefore, that the scheme should categorize and cover workers, as specified below, rather than seeking (at least in the short term) to cover all residents.

During the discussions held with stakeholders in October 2006, it became clear that all parties involved supported the adoption of a new scheme which would fill in the gaps and remedy the weaknesses of the current legislation and cover as many workers as possible. Under the existing employers' liability arrangements, it is commonly seen that private sector employers are reluctant to hire women workers of childbearing age, due to the requirement of providing for their full pay during the legal maternity leave period and, perhaps, the issues of temporary staffing during periods of maternity leave. For similar reasons, moreover, women often face the risk of being fired when becoming pregnant or of going without pay during the maternity leave period. These shortcomings are mostly due to the fact that this type of schemes is perceived as placing a considerable burden on employers, which many of them, and in particular small size employers, are unable to assume.

In the light of the discussions held with the stakeholders, it is clear that the following categories of workers should be excluded from coverage at the outset of the proposed new maternity cash benefits scheme:

- Self-employed workers, for whom insurance coverage is difficult to achieve due to the irregularity of their income. This also corresponds to international practice, as only a few schemes worldwide cover self-employed workers for maternity cash benefits. In this regard, it should be mentioned that self-employed workers are currently allowed to join the Jordanian social security scheme on a voluntary basis under Law No. 19 (2001). Such optional coverage, however, is not suitable for maternity cash benefits as it carries a high risk of abuse of the scheme.
- Agricultural, forest and pasturage workers, as well as sailors and fishermen, housemaids and the like, who are at present not covered by Law No. 19 (2001), as it was considered by stakeholders too difficult to ensure their coverage given that they are not even covered by the existing social security scheme. For similar reasons, the proposed new scheme should not extend coverage to those workers who are not covered by the current Labour Code (e.g. family members without remuneration, etc.). However, extension of coverage to these categories of workers could be revisited at a later stage.

Taking into account the exclusion of the above mentioned categories of workers from the proposed maternity cash benefits scheme, and also the main purpose of the establishment of the new scheme, namely the reduction of discriminatory practices against female workers in the private sector and covering as many as possible workers, five main possible scenarios emerge for coverage of categories of private and public sector employees under the new scheme.

SCENARIO A

All private sector employees, working in establishments with one or more employees, covered by the Labour Code

The first *Scenario A* would extend coverage of the new scheme to *all those private sector employees already covered by the Labour Code*. This option has the advantage of covering all employees by the new maternity cash benefits scheme, with the exception of those employees already excluded under the Labour Code (in 2008 approximately 793,100 private sector employees out of which **128,500** are women and 664'600 are men). It would also ensure that female employees, working in enterprises with less than five workers, would actually receive their maternity cash benefit, as the financial responsibility, which small enterprises are facing when employing young women, would be transferred from the employer to the social security administration. It would thus reduce the discriminatory employment practices in case of pregnancy, which are witnessed in small enterprises. However, as such enterprises are not yet registered with the Social Security Corporation, it may be very difficult to obtain the required data from employers and their employees and to guarantee their compliance with the scheme.

SCENARIO B

All private sector employees, working in establishments with 5 or more employees, covered by Social Security Law No. 19 (2001).

The second *Scenario B* would provide coverage to *all private sector employees already covered by Social Security Law No. 19 (2001)*. The scenario is expected to cover in 2008 approximately 401'100 private sector employees, out of which **116'000** are women and 285'100 are men. The main advantage of this option is that all employees and their employers who are currently covered by the Law, are already registered by the Social Security Corporation. Therefore, databases containing the relevant employees' data, e.g. declared income, and the relevant data of their employers have already been established, and can be used in the calculation of maternity cash benefits entitlements. Thus, the additional administrative costs of setting up a new scheme would be relatively low as the administrative apparatus to collect contributions, process claims and make benefit payments is already into place. This second scenario B has the disadvantage of failing to cover employees of enterprises with less than five workers under the new scheme, which could give an impression of discrimination against those workers and thus could carry the risk of weakening the support of some of the main stakeholders, in particular trade unions representing workers in small enterprises. However, discrimination against those employees who work in enterprises with less than five employees can be minimized by ensuring that they remain covered by the provisions of the Labour Code related to paid maternity leave (the application of such provisions should naturally cease for those workers who will be covered by the new maternity cash benefits scheme). Within this context, it should be kept in mind that it is in the Government's intention to extend social security coverage under Law No. 19 (2001) to all enterprises with one or more employees. Thus, applying the coverage provisions of Law No. 19 (2001) to the new maternity cash benefits scheme could provide an excellent opportunity for the Government to move harmoniously towards the implementation of the provision of full coverage of employees working in establishments with one or more employees.

As the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan recommended in its comments on the first draft of the report the inclusion of Government employees (civil servants and military personnel) in the new scheme, the following *Scenarios C, D and E* are framed taking this recommendation into account. In this respect, it must be noted that all female Government employees, irrespective of whether being covered under Social Security Law No. 19 (2001) or under the Civil Servants Scheme are currently provided with paid maternity leave by the Government. Therefore, the inclusion of Government employees under the new maternity cash benefits scheme would not imply an extension of maternity protection to these women who are already covered, but would rather standardize and unify maternity protection for all persons covered in Jordan.

SCENARIO C

All private sector employees, working in establishments with one or more employees, covered by the Labour Code and all Government employees.

Accordingly, the third *Scenario C* has been analyzed, under which coverage would be provided to *all private sector employees covered by the current Labour Code and all Government employees*. The main advantage of this option is that it would provide the widest range of coverage under the umbrella of the new scheme (in 2008 approximately 1'245,500 private sector and Government employees out of which **222,500** are women and 1'023'000 are men), thus expanding the scope of personal coverage of the new scheme and contributing thereby to strengthening solidarity amongst private sector and public sector employees. However, extensive administrative adaptations would be necessary to implement the new scheme due to the widening of the scope of coverage to employees in enterprises with less than five employees and Government employees who are not yet registered with the Social Security Corporation. Thus, the administrative costs for setting-up the new scheme under this Scenario D would be higher than under the other Scenarios described here below.

SCENARIO D

All private sector employees, working in establishments with 5 or more employees, covered by Social Security Law No. 19 (2001) and all Government employees.

The fourth *Scenario D*, by comparison, would extend coverage under the new scheme to all private sector employees, working in establishments with five or more employees, covered by Social Security Law No. 19 (2001) and all Government employees. It is expected that this Scenario would cover in 2008 853'500 private sector and Government employees, out of which **210'000** are women and 643'500 are men. Also this Scenario would require extensive administrative adaptations in order to implement the scheme as it would cover Government employees who are not yet registered by the Social Security Corporation.

SCENARIO E

All private sector employees, working in establishments with 5 or more employees, covered by Social Security Law No. 19 (2001) and all Government employees covered by Social Security Law No. 19 (2001).

The fifth *Scenario E* would extend coverage under the new scheme to all private sector employees, working in enterprises with five or more employees, covered by Social Security Law No. 19 (2001) together with those Government employees covered also by Social Security Law No. 19 (2001). This Scenario would cover a smaller number of employees (in 2008 approximately 705'600 private sector and Government employees, out of which **180'500** are women and 525'100 are men) than Scenarios C and D; however, as all those employees and civil servants, who would fall under the scope of coverage of the proposed new scheme, are already covered by the Social Security Law No. 19 (2001), they are already registered with the Social Security Corporation. As mentioned above under Scenario B, the databases containing the employers' and employees' data, e.g. declared income, etc., are already in place and thus Scenario C would imply relatively low costs for the setting up of the new scheme while providing coverage to a relatively high number of private sector and Government employees.

When determining the scope of personal coverage under the proposed maternity cash benefits scheme, it has also to be taken into account that the provision of maternity benefit was already, in fact, included in the Social Security Law No. 19 (2001) at the time of its adoption and when the pension schemes for which it provides were implemented. Hence, it may be deduced that the original intention at the time of drawing up that law was that those female workers covered for maternity benefits would be the same as those covered by pensions under Social Security Law No.19 (2001), which would correspond to the scope of coverage described by *Scenario E*. While it was recognized by most of the stakeholders that only full coverage (i.e. including women working in enterprises of 5 employees or fewer under the new scheme) could fully remedy the weaknesses of the current system, it appeared from the discussions that there was a general consensus on the importance of adopting the most practical and economical approach while covering as many employees

as possible (i.e. providing coverage under the new scheme to those private sector and Government employees already covered by Social Security Law No. 19 (2001)), which, again would correspond best to *Scenario E*.

In comparing *Scenarios E* with *Scenarios A and C*, it is evident that the adoption of Scenario E could be seen as having an indirect discriminatory effect on those women working in enterprises with less than five workers. Under Scenario E, these women would not be covered by the new scheme and accordingly, the liability for payment of the maternity cash benefit would remain with their employers. Thus, the new scheme will not remove the negative (relative) impact on their employment prospects. Nevertheless it is important to consider that a scheme which envisages the coverage of all female employees would require major adaptation from existing administrative and regulatory mechanisms (e.g. registration mechanisms, mechanisms for the collection of employers and workers' contributions, and enforcement mechanisms) and, hence additional implementation and compliance costs, resulting almost certainly in delays to the implementation of the new scheme and, on balance, the overall result may in fact be detrimental to the interests of female employees as a whole. Finally, it should be underlined that, while the figures show that a higher number of women could be covered should either *Scenario A* or *Scenario C* be adopted, it is very unlikely that provision of the benefits can be carried out efficiently in practice under these Scenarios, for all the above reasons. Therefore, the efficient and reliable coverage of a smaller number of workers as proposed under *Scenario E* at the onset of the scheme appears a more practically realizable way of establishing the proposed new scheme.

When determining the scope of personal coverage under the proposed maternity benefits scheme, international standards should also be taken into account. According to Article 48 of Convention No. 102, all women in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees,¹³ or all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent of all residents, should be covered. Article 2 of Convention No. 183 extends the coverage to all employed women, including those in atypical forms of dependent work. However, the Convention allows countries to exclude wholly or partly limited categories of workers from the scope of the Convention, under certain conditions, when its application would raise special problems of a substantial nature. In this regard, *Scenario E* which extends the scope of coverage to all private sector and Government employees who are covered under Social Security Law No. 19 (2001) appears to fully comply with the scope of coverage of Convention No. 102.

Therefore, the ILO, while deeply committed to the full coverage of workers, would advise that the design of the new scheme, in the first place, should follow the existing structure of Social Security Law No. 19 (2001), in order to ensure that its implementation takes place with the shortest possible delay while encouraging the progressive extension of coverage in due course to all female employees without discrimination. The extension of maternity cash benefits to enterprises with less than five employees should preferably be carried out in the context of extending the general coverage of Social Security Law No. 19 (2001) to such small enterprises.

Subchapter 5 of this Report, which sets out cost estimates for the proposed scheme, shows figures for each of the five scenarios. These figures are also intended to provide readers

¹³ Convention No. 102 permits developing countries to first set up a maternity cash benefits scheme with an even smaller number of persons covered. In this regard, Article 48 of Convention No. 102 allows, where a declaration made in virtue of Article 3 of the Convention is in force, the coverage of all women in prescribed classes of employees, which classes constitute not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

with the facility to judge to some degree the implications of possible extensions of the scheme in the future.

ILO Recommendations

It appears that *Scenario E*, which would provide coverage to all those private sector and Government employees already covered by Social Security Law No. 19 (2001) would be the most realistic and feasible Scenario in the Jordanian context. This option seems to facilitate the administrative arrangements necessary for the establishment of the new scheme. It appears to be less costly, as the existing administrative infrastructure can be used, and would guarantee a higher rate of compliance, which is necessary in order to make the new scheme work properly and efficiently.

However, efforts should be made to extend in the future the maternity cash benefits provisions to employees in small establishments. The extension of maternity cash benefits to enterprises with less than five employees should preferably be carried out in the context of extending the general coverage of Social Security Law No. 19 (2001) to such small enterprises.

For the time being, in order to minimize discrimination against those employees who work in enterprises with less than five employees, such employees should still be covered by the provisions of the Labour Code while the application of the provisions of the Labour Code relating to paid maternity leave, should cease for those employees who are covered by the new maternity cash benefits scheme.

4.3 Who pays for the proposed scheme

The financial arrangements for the funding of the proposed maternity cash benefits scheme mainly depend on the nature of the scheme. As indicated in subchapter 4.1, the recommendation of the ILO is that the new scheme should be provided through social insurance. Accordingly, it should be financed through social security contributions, which constitute a certain percentage of the earnings of every worker covered by the scheme. It should be noted that both female and male employees, as well as their employers,¹⁴ who are covered by the proposed scheme, should be liable for the payment of contributions.

Subchapter 2.7 shows that it is worldwide practice for social security contributions relating to maternity benefits to be equally shared between employers and workers. There are few countries where, in addition to employers and workers, the State contributes to the scheme. Besides international experience, one also has to take into account existing national legislation when determining the distribution of the contribution rate between the different actors under the new scheme. According to Articles 21 A (1) and 40 A (1 and 2) of Law No. 19 (2001), employers are obliged to pay 2/3 of the contribution rate fixed for the different branches covered by the Law, while employees have to pay 1/3 of the rate. On the basis of the discussions held with stakeholders in October 2006, it was evident that the contribution rate should be divided between employers and workers according to this share, as laid down in Law No. 19 (2001) for the other insurance branches, and indeed it is unlikely that any other basis would be accepted by the workers. The proposal has been put forward that, in addition to employers' and workers' contributions to the scheme, the Government may also contribute in order to show its commitment and ensure its acceptance amongst employers and employees. Such a contribution could consist for example of 1/3 of the overall monthly contributions to be paid to the scheme, either for an indefinite period or on a time bound basis for a certain fixed initial period. In such case, the contributions to be paid by employers and employees should be reduced proportionally. However, it appeared from the discussions that this option was not favoured by the Ministry of Finance, as it seemed difficult to justify a State contribution to a social security scheme which is usually financed by employers and workers. In addition, it was pointed

¹⁴ The term "employer" includes private sector employers as well as the Government as an employer.

out that there is no regular Government contribution to the other social security branches already implemented in Jordan.

Thus, the choice which appears most suitable on political and policy grounds is to divide the contribution to the new maternity cash benefits scheme in the same share as for pensions stipulated in Law No. 19 (2001). This option fully complies with Article 71 of Convention No. 102, which stipulates that employees should not contribute more than 50 per cent of the overall costs for social insurance. It is also in accordance with Convention No. 183. Furthermore, Article 71 of Convention No. 102 lays down that the State has the general responsibility for both the proper administration of the scheme the provision of benefits. Law No. 19 (2001) already lays down the general responsibility of the State for the social security branches provided by the Law and it would be of utmost importance for this principle to be extended to the new maternity cash benefits scheme.

ILO Recommendation

In view of the above, the ILO recommends applying the contribution share stipulated in Law No. 19 (2001) for pensions to the proposed maternity benefits scheme. Accordingly, *workers would have to pay 1/3 of the contribution rate based on their earnings and employers, the remaining 2/3 of the contribution rate.* This option complies with Article 71 of Convention No. 102, and with Convention No. 183. Furthermore, as Law No. 19 (2001) already lays down the general responsibility of the State for the social security branches provided for in the Law, it would be of utmost importance for this principle to be extended to the new maternity cash benefits scheme.

4.4 Length of maternity leave period during which cash benefits will be paid

- a) For the determination of the length of the paid maternity leave period of the new scheme, it is important to take into account the provisions of the current Labour Code. According to section 70, women workers are entitled to a maternity leave period of 10 weeks with full pay. It is suggested that the new provisions should be generally similar to existing ones so to gain the widest acceptance possible of the new scheme by stakeholders. In this regard, it is important that the provisions under the new scheme should be no less favourable to workers than existing ones, and yet at the same time should not be overly generous by comparison, as those workers employed in enterprises with less than five employees will not initially be able to benefit from it.

In addition, regard should be paid to the relevant provisions of Conventions No. 102 and No. 183, which respectively provide for a minimum paid maternity leave period of 12 and 14 weeks. International best practices in this field also provide useful indications as to the possible length of the maternity leave period. At the same time, it has to be borne in mind that, even if under the new scheme, employers will no longer be responsible anymore for the payment of full wages during the leave period, they will still be deprived of the productive labour of those women on maternity leave. Finally, the financial implications related to the length of the maternity leave period must also be considered in the determination of such period, as providing for a longer period would entail higher costs.

On these grounds, an extension of the current 10-week compulsory paid maternity leave period to 12 weeks under the new scheme appears to be the most appropriate option considering the national context. This would, on the one hand, be in line with the minimum standards set out in Convention No. 102 and with the maternity leave period granted to Jordanian public sector employees. On the other hand, it would not translate into substantially higher costs reflected in higher contribution rates (see Tables 5 and 6 of Annex 2B) and thus should be reasonably acceptable for

employers and workers and possibly also the Government, who have to bear in mind the overall costs of the paid maternity leave period. The administrative demands on employers also appear to be reasonable. In addition, the extension of the maternity leave period from 10 to 12 weeks would ensure standardization of the maternity leave period for all sectors of formal employment and thus, ensure compliance of the new maternity cash benefits scheme with Jordan's international obligations under the Convention on the Elimination of all Forms of Discrimination against Women and the implementation of the recommendations of the Arab Labour Conferences.

Even if the overview of the lengths of maternity leave periods all over the world, as presented in subchapter 1.8, shows that many countries have surpassed the 12-week leave period required by Convention No. 102 by providing for periods of 14 weeks and longer, as stipulated under the latest maternity protection Convention No. 183, it is believed that a 12-week leave period constitutes an appropriate target when setting up a new maternity cash benefits scheme.

- b) Concerning compulsory post-natal leave, section 70 of the current Labour Code stipulates that the paid maternity leave period of 10 weeks includes a compulsory leave of six weeks after the delivery. This is consistent with Convention No. 183 and similar provisions can be found in maternity protection legislation all over the world (see subchapter 2.4). Thus, it is recommended to include within the proposed 12-week paid leave period a compulsory leave period of six weeks after the birth of the child, during which return to work may not be allowed, in order to avoid the risk that, under pressure, women resume work to the detriment of their health and that of their child. Regarding the remaining compulsory period of six weeks, it should be left to the pregnant woman to decide when to take it. In general, it would be expected that the woman would start the maternity leave period at least two weeks before the expected date of the childbirth.
- c) As indicated in subchapter 2.4, Article 52 of Convention No. 102 prescribes that, where a longer period of abstention from work is required or authorised by national laws or regulations, the paid leave period may not be limited to a period less than such longer period. In addition, Article 5 of Convention No. 183 stipulates that on production of a medical certificate, leave shall be provided before or after the maternity leave period in case of illness, complications, or risks of complications arising out of pregnancy or childbirth. The nature and maximum duration of such leave may be specified in accordance with national law and practice. Most countries authorize a prolonged period of paid leave in case of illness, complications or risk of complications arising out of pregnancy or childbirth and its consequences, which is often granted under sickness benefits schemes. It is noted that the Jordanian Labour Code does not include any provision extending paid maternity leave in case of illness and complications due to pregnancy and childbirth. However, section 65 of the Code provides that every worker shall be entitled to fourteen days of sick leave with full pay, which can be extended for another fourteen days. The provision of paid sick leave satisfies the requirements of the Conventions. Nevertheless, a prolonged paid leave, which may be determined by national legislation, should be guaranteed under the new scheme even if the woman concerned has already used her sick leave "contingent" of one month.
- d) Some countries grant a prolonged maternity leave in case of multiple births. Although the relevant ILO Conventions do not require the granting of such additional leave period, paragraph 1 (2) of Recommendation 191 suggests that the provision of extension of the leave period should be made in the event of multiple births. As the Jordanian labour legislation does not provide for the entitlement of female workers with multiple births to a prolonged paid leave period, it is felt that the new scheme should not seek, at this stage, to outdo the provisions of the national

legislation, so as to avoid any less favorable treatment being granted to those women who will remain covered by the Labour legislation. The same considerations apply to the question of whether to provide for paid maternity leave in case of adoption¹⁵.

ILO Recommendations

Considering the above, it appears that an extension of the existing compulsory paid maternity leave period of 10 weeks, as provided for under the Labour Code, to a period of 12 weeks under the new scheme would be most appropriate in order to achieve political acceptance while being sustainable and satisfying ILO's minimum standards regarding maternity protection.

Furthermore, the maternity leave period under the new scheme should include a *compulsory leave period of six weeks after childbirth*. Such provision would be in complete accordance with the current Labour Code's provision and with ILO Conventions on maternity protection.

It is also recommended that the new scheme provides for a prolonged or *additional paid leave period in case of medical certified illness or complications* arising out of pregnancy or childbirth, which last beyond the expiration of the statutory maternity leave period.

4.5 Level of maternity cash benefits

When determining the level of cash benefits to be paid during the maternity leave period under the new scheme, the existing provisions of the Labour Code should constitute the primary reference. In this respect, the rights relating to the level of pay during maternity leave set out in the Labour Code can be considered as acquired rights for the workers concerned. According to Section 70 of the Labour Code, women are entitled to a full pay benefit during a maternity leave period of 10 weeks. However, in the event that the leave period under the new scheme is extended from 10 to 12 weeks, the possibility of providing for a slightly lower level of benefit, e.g. 85 or 90 per cent, could also be envisaged. In such a case, the requirements of Convention No. 102 (45 per cent of former earnings) and those of Convention No. 183 (2/3 of former earnings) would by far be exceeded and conformity with international best practices would also be ensured.

Nevertheless, throughout the discussions held with workers' representatives, it appeared that a reduction of the level of cash payment during the leave period, even if slight and irrespective of its length, would be resisted by workers. As for employers' representatives, they expressed no concern regarding the implementation of a replacement rate corresponding to full pay under the new scheme. The only concern of employers in this context related to a high contribution rate, nevertheless, it appeared that an employers' contribution rate of less than 1 per cent of earnings was regarded as acceptable for them.

Regarding the possibility of setting a ceiling on contributions or benefits with a view to prescribe a maximum benefit, any decision in this respect should be guided by the existing provisions of Social Security Law No. 19 (2001) and of the Labour Code, as well as by the preferences expressed by the constituents during the various discussions. As mentioned earlier, Section 70 of the current Labour Code provides for full pay during the ten-week maternity leave period. In addition, Law No. 19 (2001), which is already in force since 1978, does not set any ceiling on contributions or benefits. Given that the workers' representatives also indicated that a reduction of the current level of payment during the maternity leave period would not be agreed to by workers, and as Law No. 19 (2001) does not set a ceiling on already existing benefits, it is recommended that no ceiling be set on

¹⁵ Also regarding leave in case of adoption, the relevant ILO Conventions are silent, while paragraph 10(5) of Recommendation 191 proposes that leave should be granted in case of adoption, where adoption is provided for by national legislation.

contributions or benefits. However, any future revision of Law No. 19 (2001) in this regard should include the proposed new maternity cash benefits scheme.

Furthermore, as indicated under subchapter 2.5, it is common international practice to base the maternity benefit on the average earnings of the most recent months before the start of the leave period, in order to avoid higher earnings being declared for the last month before the maternity leave starts. In this respect, two alternatives are recommended:

- To calculate the cash benefit according to the average earnings of the most recent three months before the start of the maternity leave period, or
- To calculate the cash benefit according to the average earnings of the most recent two months before the start of the maternity leave period.

ILO Recommendation

In the view of the ILO, it appears that adopting a *replacement rate which corresponds to full pay* would be the preferred choice from the social point of view. It would also be affordable and it appears to be the politically most sensible option as it is of utmost importance to gain the support of all stakeholders, including workers' representatives, for the setting-up of the scheme. It is believed that the new scheme can only be successfully implemented if the support of workers is guaranteed through their affiliation to the scheme and the payment of required contributions. As regards the employers' concern of having to pay high contribution rates, the calculations indicated in subchapter 5.1 below demonstrate that the contribution rate for employers would be below 1 per cent of earnings, and this appears as acceptable to them. In this regard, it is recommended to design the scheme without prescribing a ceiling on contributions or benefits. However, any revision of the Social Security Law No. 19 (2001) in this regard should also include the proposed new maternity cash benefits scheme.

4.6 Qualifying conditions

Worldwide experience as well as the provisions of the relevant ILO Conventions and of the current Jordanian Labour Code are of utmost importance when examining the possibility, under the new scheme, of making entitlement to maternity cash benefits conditional upon the completion of a qualifying period and when determining the length of such qualifying period.

As mentioned in subchapter 2.2, most countries which have maternity cash benefits schemes in place have introduced at least some specific qualifying conditions for entitlement to benefits, in order to preclude abuse of the scheme. As further indicated, where insurance schemes are concerned, such qualifying periods are usually linked to periods of employment or contributions. The qualifying periods established by different countries, however, vary for example from 75 days of contributions within the last 10 months, as required in Honduras, to 10 months of contributions, in Egypt.

Variations in the length of qualifying periods are allowed under Article 51 of Convention No. 102, as long as such length may be justified as necessary to preclude abuse. Article 6 of Convention No 183 requires that conditions to qualify for cash benefits have to be set in such a way that they can be met by a large majority of women in the country concerned.

The current Labour Code does not establish any qualifying period for entitlement to the continuous wage payment during maternity leave. However, it is usual practice that benefits paid from social insurance schemes have a prescribed qualifying period for entitlement to the benefit. In this regard, the majority members of the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan agreed on the establishment of a qualifying period of 12 consecutive months of contributions in order to preclude abuse.

Bearing the above considerations in mind, it appears that a qualifying period of 12 consecutive months would not be in contradiction with the relevant provisions of the ILO social security Conventions, as such a period was deemed necessary by the Government to preclude abuse. In this regard, the establishment of a qualifying period of 12 consecutive months of contributions, as proposed by the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan could, at the onset of the scheme, be envisaged, taking into account administrative considerations, as the new maternity cash benefits scheme will be the first providing for short-term insurance benefits. However, it would be recommended reviewing this 12 consecutive months qualifying period in a reasonable time from the onset of the new scheme and then periodically so as to ensure that it is not longer than necessary to preclude abuse and that it does not deprive women of the rights to which they were entitled under the current Labour Code.

ILO Recommendation

The ILO would recommend the establishment of a qualifying period which is, on the one hand, long enough to preclude abuse of the system and, on the other hand, enables the majority of employed women in childbearing age to qualify for the benefit. In this regard, the establishment of a *qualifying period of 12 consecutive months of contributions*, as proposed by the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan could, at the onset of the scheme, be envisaged, taking into account administrative considerations, as the new maternity cash benefits scheme will be the first providing for short-term insurance benefits. However, it would be recommended reviewing this 12 consecutive months qualifying period in a reasonable time from the onset of the new scheme and then periodically so as to ensure that it is not longer than necessary to preclude abuse and that it does not deprive women of the rights to which they were entitled under the current Labour Code.

4.7 Entitlement conditions

Regarding the establishment of entitlement conditions to cash benefits under the proposed maternity scheme, it is once again recommended to follow the rules and procedures already established under the Jordanian Labour Code, in order to gain the widest support from stakeholders for the new scheme and to avoid any discrimination between those workers who will be covered by the new scheme and those who will remain covered by the Labour Code. In this respect, however, it should be considered as a minimum condition for entitlement to cash benefits that women be required to provide a medical certificate stating the expected date of the childbirth. In addition, as the contingency of maternity covers suspension of earnings due to pregnancy and confinement and their consequences, it should be considered to require the suspension of work by the woman concerned, in order to avoid the possibility that she receives cash benefits for leave in addition to her salary or wage. Such requirement would prevent the woman from resuming work before the completion of the statutory leave period, which would be desirable for both the mother's health and the child's well-being.

Furthermore, the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan proposed to limit the entitlement to maternity cash benefits to four deliveries. Taking into account the national circumstances of Jordan where the total fertility rate in 2004 amounted to 3.7 children and where it is expected to decrease to a rate of 2.1 in 2030 (see Annex 2B), such limitation of entitlement to the maternity cash benefit could be envisaged at the onset of the new scheme. It should, however, be reviewed as the scheme matures to ensure conformity with the requirements of Convention No. 102 and Convention No. 183.

ILO Recommendation

The ILO would recommend the adoption of entitlement conditions in line with those provided for in the Labour Code and related legislation. Also, the provision of a *medical certificate* stating the expected date of childbirth as well as *stoppage of work* for entitlement to the cash benefit should be stipulated as essential minimum requirements.

Furthermore, as proposed by the Advisory Committee to the Working Women's Department of the Ministry of Labour, the limitation of entitlement to the maternity cash benefit to four deliveries could be envisaged at the onset of the new scheme. It should, however, be reviewed as the scheme matures to ensure conformity with the requirements of Convention No. 102 and Convention No. 183.

4.8 Frequency of the benefit payment

As indicated in subchapter 2.6, most maternity cash benefits schemes worldwide provide for a benefit payment mechanism following the same frequency of payment as salaries and wages. In Jordan, salaries and wages are paid on a monthly basis. As cash maternity benefits constitute a replacement for the loss of wage or salary during the maternity leave, it should accordingly be paid once a month. Such frequency of payment would also meet the requirements of Convention No. 102.

ILO Recommendation

In view of the ILO, the new scheme should provide for the *payment of the benefit once a month*, in line with the frequency of payment of wages and salaries.

4.9 Transitional arrangements

It will be necessary to introduce a set of transitional arrangements to ensure ongoing entitlement for women under the old scheme who do not qualify under the new scheme. It is intended that from the outset of the introduction of the new scheme all covered employers and their workers will contribute. The issue is how to protect women who produce a medical certificate of confinement in the first year of the scheme but do not meet the qualifying conditions of 12 months of contributions. The Government will need to carefully consider the different options whereby protection can be maintained.

ILO Recommendation

The issue of how to protect women who produce a medical certificate of confinement in the first year of the scheme, but do not meet the qualifying conditions of 12 months of contributions, needs to be carefully considered.

5. Financial, administrative and legislative considerations

5.1 What are the costs of the new scheme?

Before setting-up a new social security scheme, it is of utmost importance to estimate the costs relating to the provision of benefits under the new scheme and to its administration. As noted in subchapter 2.8, the costs of maternity cash benefits schemes usually represent a relatively low percentage of total social security costs in the countries where such schemes are established.

According to ILO's recommendations, the new maternity cash benefits scheme should be set up as an insurance scheme, financed through employers' and employees' contributions, divided in such way that employers will contribute 2/3 of the fixed contribution rate while employees will contribute 1/3 of the contribution rate based on the earnings.

Estimates have been developed in order to show the cost implications of a maternity leave period of 12 weeks, as recommended by the ILO and laid down in Convention No. 102. In addition, costs for a benefit period of 10 weeks, as provided for under the current Labour Code, have been calculated to provide the Government with the comparative costs related to the extension of the maternity leave period from 10 to 12 weeks. It is assumed throughout that benefits will be paid at a rate corresponding to the average of the woman employee's former earnings of the last three months/two months before the onset of the maternity leave.

The estimates have also been made in such a way as to show the comparative costs associated with the coverage of different possible categories of members of the new scheme. While the ILO favours the coverage of all private sector and Government employees covered by Social Security Law No. 19 (2001) (*Scenario E*), a wider range of possibilities is demonstrated here below, in order to provide the Government with as comprehensive an overview as possible of the costs and contribution rates necessary for the financing of the new scheme. Considering the most relevant policy options related to coverage, estimates for costs as well as for contribution rates have been carried out according to five different scenarios which aim at capturing all different coverage possibilities. These five scenarios are described below in Table 1.

Table 1. Scope of coverage

-
- | | |
|----------|--|
| A | Coverage of all women covered by the current Labour Code; |
| B | Coverage of all women covered by Social Security Law No. 19 (2001), with the exclusion of Government employees ¹ ; |
| C | Coverage of all women covered by the current Labour Code and all Government employees; |
| D | Coverage of all women covered by Social Security Law No. 19 (2001), and all Government employees; |
| E | Coverage of all women covered by Social Security Law No. 19 (2001), including all Government employees covered by Law No. 19 (2001). |

¹ Civil servants and military personnel.

It is assumed that the costs of the new maternity cash benefits scheme will be met by contributions assessed, broadly, according to the pay-as-you-go funding system. Under this approach, which is straightforward and adequate for this branch of social security benefits, contributions are calculated so as to cover the benefits (and, in principle, administrative expenditures) on a year-by-year basis; in addition a relatively small contingency reserve may be maintained to provide a margin for fluctuations. However, the figures set out below are on a "net" basis, to which the administrative costs and an allowance to build the

contingency reserve should be added, but on a basis to be determined after discussions with the responsible administrative entity.

The results of the financial projections are summarized in Tables 2A and 2B below, for the different membership scenarios, and, as indicated above, for alternative benefit periods of 10 (Table 2A) or 12 weeks (Table 2B).

Table 2A. Benefits-to-earnings ratio (net benefits PAYG contribution rate) (%), 10 weeks benefit period

Year	Benefits-to-earnings ratio (%) ¹				
	A	B	C	D	E
2007	0.33	0.60	0.32	0.44	0.56
2012	0.32	0.59	0.31	0.43	0.54
2017	0.30	0.57	0.30	0.42	0.53
2022	0.29	0.56	0.29	0.41	0.51
2027	0.28	0.54	0.28	0.40	0.49
2032	0.28	0.52	0.28	0.39	0.48
2037	0.27	0.45	0.26	0.35	0.40
2042	0.26	0.39	0.25	0.31	0.34
2047	0.24	0.33	0.24	0.28	0.30
2052	0.24	0.31	0.23	0.27	0.28
2057	0.25	0.31	0.24	0.26	0.28

¹ Under scenarios A and C the benefits-to-earnings ratio is significantly lower than under the other scenarios, due to the coverage of small enterprises in which the proportion of females is lower than in the other subsets.

Table 2B. Benefits-to-earnings ratio (net benefits PAYG contribution rate) (%), 12 weeks benefit period

Year	Benefits-to-earnings ratio (%) ¹				
	A	B	C	D	E
2007	0.39	0.72	0.39	0.53	0.67
2012	0.38	0.71	0.37	0.52	0.65
2017	0.37	0.69	0.36	0.51	0.63
2022	0.35	0.67	0.35	0.49	0.61
2027	0.34	0.65	0.34	0.48	0.59
2032	0.33	0.63	0.34	0.47	0.57
2037	0.32	0.54	0.32	0.42	0.48
2042	0.31	0.46	0.30	0.37	0.41
2047	0.29	0.40	0.28	0.33	0.36
2052	0.28	0.38	0.28	0.32	0.33
2057	0.30	0.37	0.29	0.32	0.33

¹ Under scenarios A and C the benefits-to-earnings ratio is significantly lower than under the other scenarios, due to the coverage of small enterprises in which the proportion of females is lower than in the other subsets.

The projections of the contribution rates for the five different scenarios of Tables 2A and 2B show that for the year 2007, the contribution rate for scenario A would be for a ten-week maternity leave period 0.33 per cent of employees' earnings and for a twelve-week maternity leave period 0.39 per cent of the earnings. For scenario B it would be 0.60 per cent for a ten-week maternity leave period and 0.72 per cent for a twelve-week maternity leave period. For scenario C, it would amount to 0.32 per cent for a ten-week maternity leave period and to 0.39 for a twelve-week maternity leave period. For scenario D, the

contribution rate would amount to 0.44 per cent for a ten-week maternity leave period and to 0.53 per cent for a twelve-week maternity leave period. For the last scenario E, the costs would be 0.56 per cent of earnings for a ten-week maternity leave period and 0.67 per cent for a twelve-week maternity leave period. The year-by-year costs are expected to decrease steadily, due to the anticipated decrease of the fertility rate in the next 50 years.

As noted earlier, the ILO recommends that the new scheme covers at its initial stage all private sector and Government employees and employers already covered under Social Security Law No. 19 (2001), as expressed under *Scenario E*. The cost estimates for a maternity leave period of 12 weeks, as presented in Table 2B above indicate that, in 2007, the net costs for this scenario could be met by a contribution rate amounting to approximately 0.67 per cent of earnings, of which employees would have to pay approximately 0.22 per cent, while employers would have to contribute the remaining 0.45 per cent. The annual PAYG cost would decrease year by year, so that contributions at this rate would naturally contribute to the building of a contingency reserve.

ILO Recommendation

Assuming that the scheme covers the members envisaged in *Scenario E* (private sector and Government employees and employers already covered under Social Security Law No. 19 (2001)), it is assumed that the costs for this scenario, net of administration expenses, could be met by a *total contribution rate (for employees and employers combined) of approximately 0.67 per cent of earnings, of which employees would have to pay approximately 0.22 per cent, while employers would have to contribute the remaining 0.45 per cent of earnings.* This contribution rate appears to be sufficient to cover the benefit costs in the first year (2008) and may decrease in subsequent years.

5.2 Who administers the new scheme?

Another key issue that needs to be addressed as regards the establishment of the new maternity cash benefits scheme is to determine the institution responsible for its administration. As indicated in subchapter 4.3, the ILO recommends establishing the new scheme as a social insurance scheme to be financed by contributions from employers and their employees. In this regard, subchapter 2.9 shows that in most countries where well-established national social security systems are in place, maternity cash benefits schemes usually form part of these systems and are, together with the other social security schemes, administered by the national social security institution.

When the statutory social security system was set up in Jordan in 1978 under Law No. 19 (2001), it already included the branch of maternity cash benefits, which was to be implemented at a later stage. In due course, the Social Security Corporation was established as the institution responsible for the administration of the national social security system. It thus appears as the most suitable (from a policy perspective) and practical choice for the Social Security Corporation to also be in charge of the administration of the proposed new maternity cash benefits scheme. The Social Security Corporation is well prepared to administer the new scheme, as it has the capacity as well as the infrastructure necessary to register employers and their employees, to collect the required contributions from both employers and their employees, to assess entitlement criteria to benefits and to pay the appropriate benefits to those who fulfill the eligibility criteria. Furthermore, as the branch of maternity cash benefits has already been included in Law No. 19 (2001) in 1978, the Parliament expressed its intention, when setting up the national social security scheme, to concentrate the administration of all social security branches within one single institution. In addition, it was apparent from the discussions held with stakeholders that the Social Security Corporation has the widest acceptance among workers and employers as the most appropriate institution for administering social security; it was also understood that there were no other institutions with the will and the facilities to administer the proposed new maternity cash benefits scheme. Moreover, the

administration of the new scheme through the Social Security Corporation fully complies with the requirements of Convention No. 102 and No. 183, as the Social Security Corporation is governed by a tripartite Board comprising representatives of relevant ministries as well as employers' and workers' representatives.

Furthermore, taking into account worldwide practice, the question of merging the proposed new maternity cash benefits scheme with other social security branches already implemented in Jordan should be considered. It appears advisable to merge the proposed new scheme with the old-age, invalidity and survivors' pensions branches for investment purposes. However, it is important to keep separate accounting on contributions and benefits payments and administrative costs, so as to be able to monitor the performance of the new scheme and to be able to take the necessary measures to guarantee its sustainability in the long term.

In this regard, it should be noted that it would be required from the Social Security Corporation that it adapt its mechanism for the collection of contributions and the payment of benefits to the new maternity cash benefits scheme. In addition, an appropriate mechanism for the processing of maternity cash benefits claims would need to be put in place.

ILO Recommendations

In view of the above, the ILO recommends *that the proposed new maternity cash benefits scheme be administered by the Social Security Corporation*, as it is believed to have the appropriate infrastructure to do so, as well as long standing experience in administering social security benefits. In addition, through the integration of the branch of maternity cash benefits in the Social Security Law No. 19 (2001), the legislature expressed its will to concentrate the administration of social security benefits in Jordan within one single institution.

Furthermore, the ILO is of the view that *it would be appropriate to merge the proposed new maternity cash benefits scheme with the old-age, invalidity and survivors' benefits scheme for investment purposes. However, it would be advisable to keep separate accounting regarding the contribution income, the benefit payments and the administrative costs*, so as to be able to monitor the performance of the scheme and to take appropriate measures for guaranteeing its sustainability.

Finally, it must be kept in mind that, in order to process the cash maternity benefits claims under the new scheme, the Social Security Corporation would need to put in place appropriate mechanisms.

5.3 Legislative amendments for implementation of the new scheme

When proceeding to the codification of the proposed new maternity cash benefits scheme, careful attention has to be given to the adaptation of the current legislation, and in particular, the Social Security Law No. 19 (2001) and the Labour Code, so as to ensure that pieces of legislation do not contradict each other, but rather be complementary.

Given that the branch of maternity cash benefits is already comprised in Social Security Law No. 19 (2001), it would seem appropriate for the provisions governing its implementation to also be included in this Law. These provisions are mainly related to the amount of cash benefits, the period during which benefits are paid, their entitlement conditions and their financing mechanisms. The Labour Code needs to be revised in such way that the application of the provisions governing the maternity leave period and the payment of wages cease to apply to those female employees who will be covered by the new maternity cash benefits scheme. Furthermore, regulations and ministerial decrees for the implementation of the new scheme need to be issued.

ILO Recommendation

The ILO recommends that, as *the branch of maternity cash benefits is already included in Social Security Law No. 19 (2001), the provisions needed for governing this new branch should also be included in this Law*. It is further necessary to revise the Labour Code accordingly. In addition, the necessary regulations and ministerial decrees for the implementation of the new scheme need to be issued in due course.

6. Conclusions regarding the establishment of a maternity cash benefits scheme in Jordan

After having examined carefully the national context in Jordan and the different concerns of the stakeholders, it appears that Jordan would be in the position to establish a new maternity cash benefits scheme as proposed in the present Report, in conformity with the requirements of the ILO Convention No. 102 and in line with international best practices.

It is recommended that the new maternity cash benefits scheme should be established on the basis of social insurance principles, with the Social Security Corporation as the institution responsible for its administration. Initially, all employees and their employers, already covered for pension purposes by Social Security Law No. 19 (2001), including those Government employees already covered by Social Security Law No. 19 (2001), should be covered by the new scheme. Female employees working in private sector establishments with less than five employees should remain covered under the Labour Code. The Government, nevertheless, would be encouraged to progressively extend coverage under the new scheme to all female employees who remain covered by the Labour Code.

It is envisaged that the new scheme should provide for a cash benefit equal to the previous earnings of the woman concerned during the maternity leave period (100 per cent replacement rate). It is further recommended that the leave period will be set at the outset at 12 weeks, in conformity with the requirements of Convention No. 102 as well as in line with Jordan's international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women and with the recommendations of the Arab Labour Conferences. Furthermore, a minimum of six weeks leave should be taken compulsorily after the confinement and the remainder should be at the choice of the woman concerned. With regard to national circumstances, a qualifying period of 12 consecutive months of contributions, as proposed by the Advisory Committee to the Working Women's Department of the Ministry of Labour of Jordan could, at the onset of the scheme, be envisaged. Such qualifying period should be reviewed after a reasonable time and then periodically to ensure a balance between the concerns about abuse and the concerns about excluding insured women from qualifying for maternity cash benefits. The new scheme should be financed through contributions, to be paid by employees and their employers, of which employees would pay 1/3 of the fixed contribution rate based on their earnings, and employers the remaining 2/3 of the contribution rate.

Estimates for the new scheme show that the costs for *Scenario E*, which is favoured by the ILO for implementation purposes, may be met by a net contribution rate (before the addition of administration costs) of 0.67 per cent of employees' earnings, of which employees would have to pay approximately 0.22 per cent, while employers would have to contribute the remaining 0.45 per cent of earnings. The financial projections show that the actual annual costs will reduce year by year, reflecting the observed trend to lower rates of fertility, and would allow either a reduction of the contribution rate in subsequent years, or an enhancement of the benefit provision. The calculations show that in Jordan, as in most countries worldwide, the clear medium and long-term advantages that the implementation of a maternity cash benefits scheme would bring not only to Jordanian female employees and their employers, but also to society as a whole may be readily achieved at a cost which is very low in comparison to the costs of other social security benefits.

The issues discussed in this Technical Note need to be carefully analysed, discussed and agreed upon by all Jordanian stakeholders. The ILO is fully prepared and willing to assist the Government in the future development of such a proposed maternity cash benefits scheme, in particular through such further detailed costing of the scheme as may be

required, drafting of relevant legislation or amendment and revision of existing legislation and the implementation of the administrative process.

Annex 1. Maternity protection schemes (cash benefit) in selected countries

Latin American countries

	Belize	Honduras	Mexico	Peru	Uruguay
Type of program	Social insurance system; cash benefits only.	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits.	Social and private insurance system; cash and medical benefits.	Social insurance system.
Coverage	Compulsory insurance for employed persons aged 14 to 64, including public servants and self-employed.	Public sector employees and employees of firms in industry and commerce with one or more workers in specified regions.	Employees, members of producers', agricultural, and credit union cooperatives. Voluntary coverage for self-employed, domestic workers, family labour, etc. Special systems for public sector workers.	Compulsory insurance for workers in public and private sector; self-employed, domestic and agriculture workers, cooperatives workers, etc; special systems for certain categories of workers.	Private sector employees and domestic workers. Special systems for public servants.
Financing	Insured persons and employers (contributions vary according to wage classes). Self-employed (7% of weekly income between B\$55 and B\$320 (US\$1.00 equals B\$2.20) Government covers any deficit. Contributions also finance old-age, invalidity, survivors, sickness, and work injury benefits.	Employees (2.5% of gross earnings), employers (5% of payroll) and government (0.5% of total covered earnings). Contributions also finance maternity medical benefit, work injury, and sickness benefits.	Employees (0.25% of gross monthly earnings), employer (0.7% of gross monthly earnings), self-employed (0.7% of declared earnings) and Government (0.05% of gross monthly earnings). Contributions also finance cash sickness benefit.	Employers (9% of payroll). Contributions also finance maternity medical benefit and sickness benefit.	Insured persons (3% of gross earnings), employer (5% of payroll); Government (through tax system). Contributions also finance sickness benefit.
Amount of benefit and its duration	14 weeks. Benefit equal to 80% of the average weekly insurable earnings.	12 weeks (6 weeks before and 6 weeks after confinement) Benefit equal to 66% of earnings. Minimum monthly insurable earnings for contribution and benefit purposes: 360 lempiras (US\$1.00 equals 18.86 lempiras).	84 days (42 before and 42 after confinement). Benefit equal to 100% of last daily earnings. Minimum benefit equal to regional minimum wage.	90 days (45 days before and 45 days after confinement. Benefit equal to 100% of earnings. Minimum earnings for contribution purposes equal to legal monthly minimum wage (460 nuevo soles (US\$1.00 equals 3.25 nuevo soles)	12 weeks (6 weeks before and 6 weeks after confinement) Benefit equal to 100% of average earnings in the last 6 months. Minimum earnings for contribution purposes: 1,746.25 NP (US\$1.00 equals 24.15 NP)

	Belize	Honduras	Mexico	Peru	Uruguay
Ceiling on earnings considered for payment of contributions and calculation of benefits	No ceiling on contributions.	Maximum monthly insurable earnings for contribution and benefit purposes: 4,800 lempiras (US\$1.00 equals 18.86 lempiras).	Maximum earnings for benefit calculation purposes equal to 25 times the minimum monthly wage in Mexico City (1,631.12 NP (US\$1.00 equals 10.88 NP)).	Ceiling on benefit (amount not specified).	No ceiling on benefit.
Qualifying conditions	50 weeks of contributions, including 25 weeks of the 39 weeks ending 6 weeks before confinement.	75 days of contributions in the last 10 months.	30 weeks of contributions in the 12 months before benefit is payable.	Insured when the child was conceived.	No qualifying condition.

Middle Eastern and North African countries

	Algeria	Egypt	Morocco	Tunisia
Type of program	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits.
Coverage	Compulsory insurance for all employed persons.	Compulsory insurance for employed persons aged 18 or older (aged 16 or older if a government employee).	Compulsory insurance for all salaried workers and apprentices in industry, commerce, forestry, agricultural cooperatives, and associations. Special systems for civil servants and for certain other categories of employees.	Private-sector employees; certain categories of fishermen. Special systems for certain categories of workers (e.g. civil servants, agricultural workers, farmers, and fishermen)
Financing	Insured person (1.5% of gross earnings), employer (12.5% of gross payroll). Contributions also finance maternity medical and sickness benefits, disability and, survivor benefits, and death grant.	Insured person (1% of gross earnings), employer (4% of gross monthly payroll and 3% if providing cash sickness benefits to employees). Contributions also finance maternity medical and sickness benefits.	Insured person (0.33% of gross earnings) and employer (0.67% of gross payroll). Contributions also finance maternity medical and sickness benefits.	Insured persons (1.74% of gross monthly earnings) and employer (4.51% of gross payroll). Contributions also finance maternity medical and sickness benefits, death grant and death allowance.
Amount of benefit and its duration	14 weeks (including up to 6 weeks before confinement). Benefit equal to 100% of earnings. Minimum daily benefit equal to 8 times the legal hourly minimum wage.	90 days. Benefit equal to 75% of last insurable daily wage before maternity leave period. Minimum benefit equal to minimum contributory salary (equal to lower limit of civil servant salary scale)	14 weeks. Benefit equal to 100% of average insurable salary received during the 6 calendar months before confinement.	30 days, with possible extension of 15 days. Benefit equal to 2/3 of average daily earnings.
Ceiling on earnings considered for payment of contributions and calculation of benefits	No ceiling on contributions.	Maximum monthly earnings for contribution and benefit purposes: 1,150 pounds (US\$1.00 equals 6.21 pounds)	Maximum average monthly earnings for benefit calculation purposes: 6,000 dirham (US\$1.00 equals 8.47 dirham).	Maximum benefit: twice the legal minimum daily wage.
Qualifying conditions	15 days (or 100 hours) of insured employment in last 3 months or 60 days (or 400 hours) in the 12 months preceding onset of pregnancy	10 months of contributions.	54 days of contributions during 10 months before expected date of childbirth.	Eighty days of insured employment during the last four quarters.

European countries

	Cyprus	France	Greece	Italy	Lithuania
Type of program	Social insurance system; cash benefits and medical benefits.	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits.	Social insurance (cash benefits) and universal (medical benefits) system.	Social insurance system.
Coverage	Compulsory insurance for employees and self-employed; voluntary coverage for women working abroad in service of Cypriot employer.	Compulsory insurance for employees; voluntary coverage for French citizens working abroad; special systems for certain categories of workers including agricultural, mining, railroad, public utility and public sector employees, and self-employed.	Compulsory insurance for employees; special systems for certain categories of workers including agricultural and public sector.	Compulsory insurance for employees, contract workers and self-employed.	Compulsory insurance for employees; voluntary coverage for self-employed and all other persons older than age 16 residing permanently in Lithuania.
Financing	Insured persons (6.3% of gross earnings), employers (6.3% of payroll); self-employed (11.6% of gross earnings) and Government (4% of payroll). Contributions also finance old-age, disability, survivors', unemployment and work injury benefits.	Insured persons (0.75% of gross earnings), employers (12.8% of payroll plus other contributions) and Government through taxes. Contributions also finance disability, survivors' and sickness benefits.	Employee (0.4% of monthly earnings); employer (0.8% of monthly payroll). These contributions also finance work injury and sickness benefits. Self-employed (0.4% of monthly earnings which also finances sickness benefit) employer. Guaranteed annual State subsidy.	Employers (0.46% of gross earnings paid on behalf of blue and white-collar workers and 0.24% of gross earnings on behalf of employees in commerce and the service sector). Variable contributions on behalf of some categories of contract workers. Variable contributions from self-employed. Government finances the total cost for certain categories of workers including home, agricultural and domestic workers	Employees (0.5% of earnings) and employers (2.8% of payroll) Government covers any deficit. Self-employed voluntary monthly contributions between 10 to 200 litas (US\$1.00 equals 2.92 litas). Contributions also finance sickness benefits.
Amount of benefit and its duration	16 weeks, beginning with the 6 th week and 2 nd week before expected week of confinement. Benefit equal to 75% of weekly average insurable earnings over the benefit year.	16 weeks (6 weeks before confinement and 10 weeks after confinement); Benefit equals 100% of net salary. Minimum benefit: 8.24 Euros per day (US\$1.00. equals 0.84 euros).	119 days (56 days before and 63 days after confinement).	4 months (1 month after and 3 months after confinement. Benefit amounts to 80% of earnings for this compulsory period.	126 days (70 days before and 56 days after confinement). Full compensatory wage is paid during the leave period. The benefit must not be lower than ¼ of current years insured

	Cyprus	France	Greece	Italy	Lithuania
			Minimum benefit equal to 2/3 of the insured's earnings; the insured may also receive a maternity supplement for dependants equal to a maximum of 1/3 of earnings.		income.
Ceiling on earnings considered for payment of contributions and calculation of benefits	Ceiling on insurable earnings: 479£ per week (US\$1.00 equals 0.48£).	No ceiling on contributions. Maximum monthly earnings for benefit calculation: 2,589 Euros. Maximum benefit: 69.31 Euros per day; (US\$1.00. equals 0.84 euros)	No ceiling on contributions. Maximum benefit: 41.78 Euros per day (no dependants) and 58.49 Euros per day (maximum of 4 dependants) (US\$1.00. equals 0.84 euros).	No ceiling on contributions and benefit.	No ceiling on contributions and benefit.
Qualifying conditions	Insured person has to be insured for at least 26 weeks up to the starting date of the commencement of maternity allowance, including 20 weeks of insurance in the last year.	Affiliation to the insurance scheme for at least 10 months at the expected date of confinement and 200 hours of paid employment in the 3 months before certification of pregnancy.	200 days work resulting in contributions during the last 2 years.	Affiliation to the insurance scheme; self-employed and contract workers must meet contribution conditions and a means-test	3 months insurance during the last 12 months or at least 6 months insurance during the last 24 months.

Other selected countries

	Japan	Philippines	Turkey	Russia	Vietnam
Type of program	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits.	Social insurance system; cash and medical benefits.	Social insurance (cash benefits) and universal (medical benefits) system.	Social insurance system; cash and medical benefits
Coverage	Employees of firms in industry and commerce with 5 or more employees; voluntary coverage for employees in private sector workplaces with less than 5 workers and for agricultural, forestry and fishery workers.	Private-sector employees up to age 60; domestic employees and self-employed earning at least 1,000 pesos a month (US\$1.00 equals 55.86 pesos). Voluntary coverage for certain categories of persons. Coverage for up to 4 deliveries or miscarriages.	Employees working under a service contract in the public and private sectors.	Employed citizens.	Private and public-sector employees with employment contracts of at least 3 months including domestic, agriculture, fishing, and salt production workers and civil servants. Voluntary coverage for self-employed. Coverage for first two childbirths.
Financing	Insured persons (4.1% of basic monthly earnings), employers (4.1% of basic monthly payroll) and Government (13% of benefit costs). Contributions also finance maternity medical and sickness benefits.	Insured persons (3.33% of monthly gross insured earnings), employer (6.07% of employees monthly insured earnings), voluntarily insured and self-employed (9.4% of monthly gross earnings); Government covers any deficit. Contributions also finance maternity medical benefit, old-age, disability, survivors, and sickness benefit.	Employers (1% of monthly payroll); Contributions also finance and maternity medical benefits.	Employer (3.2% of payroll). Contributions also finance old-age, disability, survivors and sickness benefits.	Employers (5% of monthly payroll); contribution also finances cash sickness and work injury benefits. Voluntary contributions from self-employed. Minimum earnings for contribution purposes are equal to minimum wage.
Amount of benefit and its duration	98 days (42 days before and 56 days after confinement). Benefit equal to 60% of average daily basic wage. Minimum monthly basic wage for contribution and benefit purposes: 92,000 yen (US\$1.00 equals 110.19 yen). Payment of benefit discontinued or reduced partially if mother is receiving a wage or cash sickness.	60 days for miscarriage or non-caesarian birth; 78 days for caesarian birth. Benefit equal to 100% of average daily insured earnings. Min. monthly earnings for contribution and benefit purposes: 1,000 pesos; 5,000 pesos for voluntary insured overseas workers (US\$1.00 equals 55.86 pesos).	16 weeks (8 weeks before and 8 weeks after confinement). Benefit equal to two-thirds of earnings. Minimum monthly earnings for contribution and benefit purposes: 444,150,000 liras (US\$1.00 equals 1,499,000 liras).	140 days (70 days before and 70 days after confinement) Benefit equal to 100% of the insured's gross earnings in the last 12 months.	120 days. Benefit equal to 100% of wages.

	Japan	Philippines	Turkey	Russia	Vietnam
Ceiling on earnings considered for payment of contributions and calculation of benefits	Maximum monthly wage for contribution and benefit purposes: 980,000 yen (US\$1.00 equals 110.19 yen).	Maximum monthly wage for contribution and benefit purposes: 15,000 pesos (US\$1.00 equals 55.86 pesos).	Maximum monthly earnings for contribution and benefit purposes: 2,886,975,000 liras, or 6.5 times minimum earnings (US\$1.00 equals 1,499,000 liras).	Maximum benefit: 12,480 rubles (US\$1.00 equals 28.73 rubles).	No ceiling on earnings for contribution purposes.
Qualifying conditions	To be in covered employment. If an insured person leaves employment but was in covered employment during the previous 12 months, maternity benefit continues.	3 months of contributions in the last 12 months immediately before the 6-month period prior to the childbirth or miscarriage.	120 days of contributions.	No minimum qualifying period	No minimum qualifying period.

International practices

The aim of the annexed schemes is to summarize some of the international practices in Asia, Middle East and North Africa (MENA) and Latin America (LA). Some of the international best practices are included: Algeria, Mexico, Morocco, Peru, Russia, Uruguay¹⁶ and Vietnam. Other sample countries provide middle/high standard benefits, such as Belize, Honduras, Egypt,¹⁷ Iran, Japan, Philippines, and Turkey.

¹⁶ As opposed to the other country examples, the Eastern Republic of Uruguay provides maternity benefits from the social assistance fund.

¹⁷ This country has in place a mixed system (participation of employers and social security). Employers pay 25% of the aggregate maternity cash benefit (in addition to their contribution to the Social Security scheme). Following the principles of Convention No. 183, International Labour Office actively promotes compulsory social insurance for maternity protection.

Annex 2A. The Financial Projections – Principles

- a) The proposal examined in this paper is a scheme of maternity cash benefits organized under *social insurance* principles, to replace the existing system of benefits payable on the basis of *employers' liability*. It is important to note that, if the quantum of benefits payable does not change (i.e. if the categories of beneficiary mothers remain unchanged, the amount of benefit is linked as before to the pre-confinement rate of earnings of a beneficiary, and the period of payment remains at 10 weeks) then the *overall cost of the scheme to the nation is not expected to change*. The relevant figures have been estimated and can be seen in Annex 2.B, below. This is so, in economic terms, because the cost of the benefits provided is determined by their definition, and *not* by the method of their financing (with the caveat that the investment of funds and the income there from may have an effect on the incidence over time of the overall cost, although this factor should be of minor significance in the present case, given that there is no plan to accumulate more than a small contingency fund).
- b) The new scheme will, however, change the distribution of the “burden” (which is shown by the projections, at the national level, to be small) amongst the participants. The application of the social insurance principle means that the costs, which fall in an otherwise rather unpredictable manner on employers, creating some prospective difficulties for small enterprises, can be pooled in a way which preserves a high degree of fairness and can be met by contributions assessed in a highly predictable way.
- c) In addition, the change from a system of employers' liability to one of social insurance should relieve enterprises of much of the administrative burden (in particular, the need to check the eligibility of each individual claim, and should enable expectant mothers to claim their benefits with relative ease and speed, with some extra, consequential advantages to their health.
- d) The cost of benefits, in monetary (JD) terms depends, obviously, on the number of potential beneficiaries covered. In the present circumstances in Jordan, although the number of workers covered by the social security system is well established, there are a number of features of the labour market, [including high levels of migration], which mean that trends are not well established, and cannot easily be analysed. The projections which have been made, extending some 50 years into future therefore reflect both what is known at present with reasonable certainty, and also some estimates as to future progression labour market profiles; the estimates are, *inter alia*, compatible with those used in the cost estimates for other branches of the social security system for Jordan. On the bases used, it is estimated that the maximum number of workers to be included in the contribution base (refer to Scenario C in the main text) at the outset will be 1.2 million. The cost of benefits in terms of percentages of earnings, however, reflect the age and sex profiles of the workers covered (rather than their actual numbers), and therefore may be regarded as providing a better basis than monetary figures for assessment of the design options.
- e) The cost estimates have been made, in the light of discussions with the scheme authorities in Jordan to show the impact of a number of decisions to be made in regard to the scheme. Accordingly, figures are calculated for five different groupings of persons who may be included in the social insurance pool (Scenarios A to E). Figures are calculated on the assumption that the period for benefit payment will be set at 12 weeks, indicated as the preferable option of the stakeholders and also recommended by ILO in conformity with the provisions laid down in Convention No. 102. Figures are also calculated for a maternity cash benefits period of 10

weeks, as at present under the existing employers' liability system; this enables stakeholders to compare the costs of the scheme for benefit periods of 10 and of 12 weeks.

Annex 2B. Technical Information

The benefit expenditure formula is as follows:

$$B = \left(\sum_x N \times T \times S \right) \times E \times R \times D$$

Where:

- B: Estimated benefits expenditures in the financial year
- N: Number of females in the population covered by the system at each age x in the financial year
- T: Proportion women of age x who give birth in the financial year (known also as the age fertility rate)
- S: Average monthly salary of women of age x
- E: Proportion of women who satisfy the qualifying period
- R: Proportion of salary paid during the maternity leave
- D: Average duration of maternity leave expressed in month.

The costs are obtained by multiplying the projected number of claimants by the number of weeks during which the cash benefit is paid per birth and the weekly benefit rates. The projected number of claimants constitutes the future number of births multiplied by the assumed ratio of the number of claimants to the number of births. The contribution rates are obtained by dividing the sum of the estimated benefit expenditure by the total insurable earnings

The demographic and macro-economic framework developed for the actuarial review of the existing social security system as of 31 December 2004 was used for establishing the different scenarios. A detailed description of this framework can be found in the actuarial Report prepared by the ILO and to be submitted to the Social Security Corporation in 2007. However, given that five scenarios are contemplated for the scope of coverage, it is necessary to establish a specific set of assumptions related to the scope of coverage. The most relevant assumptions for the financial estimations are shown in Table 3, as follows:

Table 3. Key data and assumptions for the costing of the maternity cash benefits scheme

Assumptions	Description
Total fertility rate	3.7 in 2004 decreasing linearly to 2.1 in 2030
Participation rates to the labour force	Males: age-specific participation rates constant at 2004 level. Females: age-specific participation rates increasing linearly to 35 of males rates over 50 years
Insurable salaries	2004 salaries by gender and age are increased every year according to the economic assumption on earnings growth
Eligibility ratio	All covered women with at least the required minimum number of weeks of contributions are eligible
Covered population	Statistical data of the Social Security Corporation and from the most recent labour force surveys were used to estimate the total number of employees covered by Social Security Law No. 19 (2001), of Government employees not covered by Social Security Law No. 19 (2001) and of employees in small enterprises by gender and age

Table 4 shows the number of contributors and the number of eligible benefit recipients for selected years of the projection period:

Table 4. Covered population and eligible births (thousand)

Year	Average number of contributors ¹					Eligible births				
	A	B	C	D	E	A	B	C	D	E
2007	762.6	389.8	1,202.1	829.3	675.0	17.6	16.0	27.4	25.8	24.5
2008	793.1	401.1	1,245.5	853.5	705.6	17.8	16.1	27.7	26.0	25.0
2009	824.1	412.0	1,289.9	877.8	736.6	17.9	16.2	28.0	26.3	25.4
2010	855.9	423.0	1,334.9	901.9	767.5	18.1	16.3	28.2	26.5	25.8
2011	888.5	433.6	1,380.9	926.1	798.7	18.1	16.3	28.4	26.6	26.1
2012	922.0	444.6	1,427.3	950.0	829.7	18.6	16.3	29.0	26.7	26.3
2017	1,094.8	506.4	1,665.7	1,077.3	994.9	21.6	16.4	32.6	27.4	27.3
2022	1,275.3	572.9	1,922.4	1,220.0	1,174.7	24.2	16.2	35.7	27.7	27.7
2027	1,467.6	649.4	2,202.7	1,384.5	1,369.5	26.2	16.1	38.5	28.4	28.4
2032	1,646.9	724.3	2,477.2	1,554.6	1,554.6	28.9	16.9	42.4	30.3	30.3
2037	1,814.7	801.2	2,727.5	1,713.9	1,713.9	33.6	18.4	48.4	33.2	33.2
2042	1,977.0	876.7	2,949.8	1,849.5	1,849.5	38.2	19.5	53.9	35.2	35.2
2047	2,124.2	945.0	3,147.7	1,968.4	1,968.4	42.8	20.2	59.0	36.4	36.4
2052	2,257.5	1,006.3	3,321.6	2,070.4	2,070.4	47.4	20.7	64.1	37.4	37.4
2057	2,358.6	1,043.7	3,448.7	2,133.8	2,133.8	50.3	20.8	67.0	37.6	37.6

¹ This concept is different from the number of persons who contribute at least once during the year used in the Report on the actuarial valuation of the current system.

The projected costs of benefit expenditures are shown in Table 5 and Table 6, as follows:

Table 5. Benefits expenditures based on a leave period of 10 weeks (million JD)

Year	Benefits expenditures				
	A	B	C	D	E
2007	5.6	5.1	8.8	8.3	7.7
2008	5.8	5.3	9.1	8.6	8.1
2009	6.0	5.4	9.4	8.9	8.5
2010	6.2	5.6	9.8	9.2	8.8
2011	6.4	5.8	10.1	9.5	9.2
2012	6.8	6.0	10.6	9.8	9.5
2017	9.1	7.0	13.8	11.7	11.5
2022	12.1	8.2	17.9	14.0	13.8
2027	15.4	9.5	22.7	16.8	16.7
2032	20.2	11.9	29.8	21.5	21.3
2037	28.0	15.5	40.6	28.2	27.9
2042	38.0	19.7	53.9	35.7	35.2
2047	50.5	24.3	70.3	44.1	43.5
2052	66.5	29.6	90.6	53.8	53.1
2057	83.6	35.3	112.4	64.1	63.2

Table 6. Benefits expenditures based on a leave period of 12 weeks (million JD)

Year	Benefits expenditures				
	A	B	C	D	E
2007	6.7	6.1	10.5	9.9	9.3
2008	7.0	6.3	10.9	10.3	9.7
2009	7.2	6.5	11.3	10.7	10.2
2010	7.5	6.7	11.7	11.0	10.6
2011	7.7	7.0	12.2	11.4	11.0
2012	8.1	7.2	12.8	11.8	11.5
2017	10.9	8.4	16.6	14.0	13.8
2022	14.5	9.8	21.5	16.8	16.6
2027	18.5	11.4	27.2	20.2	20.0
2032	24.3	14.3	35.8	25.8	25.5
2037	33.6	18.6	48.8	33.8	33.5
2042	45.6	23.7	64.7	42.8	42.3
2047	60.6	29.2	84.3	52.9	52.2
2052	79.8	35.5	108.7	64.5	63.7
2057	100.3	42.4	134.8	76.9	75.9