



**COMMITTEE  
FOR JUSTICE**



**LABOR  
JUSTICE**

**Methodology**

## METHODOLOGY

The working individual or employee, according to the International Labour Organization (ILO) definition, is a person who is 15 years of age or older, engaged in paid work for at least one hour in a certain week, or absent from work for specific reasons (such as annual leave, illness, maternity, etc.) for a certain period of time. This definition includes all forms of work (employees, self-employed, family helpers, and private employment), whether the work is officially announced or not.

According to the definition in Egyptian Labor Law No. 12 of 2003, an employee is “any natural person who works for remuneration under the control and supervision of an employer.” This definition entails several acquired rights and entitlements that the Committee for Justice (CFJ) will monitor within the framework of its work on labor rights, primarily relying on ILO agreements and recommendations. CFJ will also refer to certain provisions of Egyptian Labor Law No. 12 of 2003 and its amendments.<sup>1</sup>

## THE RIGHT TO STRIKE:

The International Labor Organization (ILO) has not adopted a specific agreement or recommendation dedicated to emphasizing the right of workers to declare a strike. Recognition and acknowledgment of this right are integrated into various other resolutions and recommendations. For example, there is a resolution related to the elimination of anti-union legislation in member states, adopted in 1975. This resolution recommended that member states should enact laws that ensure the effective and unrestricted exercise of trade union rights by workers, including the right to strike. Similarly, the 1970 resolution on trade union rights and their relationship with civil liberties called on governing and administrative authorities to take several measures to ensure full and universal respect for trade union rights in their broadest sense, with special attention to the right to strike.<sup>2</sup>

In addition, the Egyptian constitution, in Article 15, guarantees to workers the right to engage in peaceful strikes. Article 192 of Egyptian Labor Law No. 12 of 2003 regulates the procedures for such strikes, aimed at defending the professional, economic, and social interests of workers through their trade union organizations. Workers in the establishment must notify their specific trade union committee or the general trade union (in the absence of a specific committee) of the reasons and date of the strike. The trade union committee then notifies the employer and the relevant administrative authority at least ten days before the scheduled strike date.<sup>3</sup>

Article 194 of the same law, however, prohibits strikes for workers in vital facilities and national security institutions. Prime Minister Atef Ebeid’s Decision No. 1185/2003 specified these facilities to include national security and military production facilities, hospitals, medical centers, pharmacies, bakeries, public passenger transportation (maritime, land, and air), cargo transportation means, civil defense facilities, water, electricity, gas, and sewage facilities, communication facilities, ports, lighthouses, airports, as well as employees in educational institutions. This is because they are considered vital facilities, and a halt in their operations would disrupt the daily life of citizens.<sup>4</sup> This article contradicts the Egyptian constitution, which guarantees the right to peaceful strike without discrimination. Furthermore, it also goes against the International Covenant on Economic, Social,

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1 To access the full text of Egyptian Labor Law No. 12 of 2003, please visit this link: Egyptian Labor Law No. 12 of 2003. <https://manshurat.org/node/14585>

2 GERNIGON, Bernard, Alberto ODERO, and Horacio GUIDO. 2000. “ILO Principles Concerning Collective Bargaining.” *International Labour Review* 139 (1): 33–55. <https://doi.org/10.1111/j.1564-913x.2000.tb00401.x>.

3 Article 192 of the Egyptian Labor Law states: “Workers have the right to engage in peaceful strikes, and the announcement and organization of such strikes shall be carried out through their trade union organizations to defend their professional, economic, and social interests, within the limits and in accordance with the regulations and procedures stipulated in this law. In the event that the workers of an establishment with a trade union committee intend to strike, in cases permitted by this law, the trade union committee - after obtaining the approval of the majority of two-thirds of its members - must notify both the employer and the competent administrative authority at least ten days before the scheduled strike date by registered letter with acknowledgment of receipt. If there is no trade union committee in the establishment, the notification of the workers’ intention to strike shall be made to the relevant general trade union. The latter, after obtaining the approval of its board of directors by the majority specified in the preceding paragraph, shall undertake the notification referred to. In all cases, the notification must include the motivating reasons for the strike and the specified duration.” You can read the full text of the law here: <https://manshurat.org/node/14585>

4 “The strike is prohibited, or even calling for it, in vital or strategic facilities where the cessation of work in them would disrupt the daily life of the citizens or jeopardize national security and essential services provided to the citizens.” The decision specifically lists these facilities as national security and military production facilities, hospitals, medical centers, pharmacies, bakeries, public passenger transportation (maritime, land, and air), cargo transportation means, civil defense facilities, water, electricity, gas, and sewage facilities, communication facilities, ports, lighthouses, airports, as well as employees in educational institutions.

and Cultural Rights, which, in its Article 8, states the commitment of states to uphold the right to strike.<sup>5</sup>

## THE RIGHT TO ORGANIZE AND FORM UNIONS

The International Covenant on Economic, Social, and Cultural Rights, in its Article 8, obliges member states to guarantee the right to unionize for workers without any restrictions from the state.<sup>6</sup> Furthermore, the International Labour Organization issued Convention No. 87, the Freedom of Association and Protection of the Right to Organize Convention, which states that each country must commit to granting workers and employers the right to form organizations and associations without discrimination and without prior authorization.<sup>7</sup> Additionally, they have the right to join organizations, the freedom of these organizations to establish their own rules, and the free election of their representatives. Administrative authorities are not allowed to dissolve or suspend the activities of these organizations.

The Egyptian constitution, in its Article 76, guarantees the right to establish unions and associations on a democratic basis, with their legal personality. They are free to carry out their activities, contribute to raising the efficiency of their members, defend their rights, and protect their interests. The state ensures the independence of unions and associations, and their management boards cannot be dissolved except by a judicial ruling.

In 2017, a draft of the new Trade Unions Law was issued, which imposed obstructive conditions for the establishment of labor unions and undermined the independence of partial unions. Labor unions were structured hierarchically, with the workplace committee at the bottom (one committee per governorate or city), followed by the general union (at the professional or industrial level), and the General Federation of Egyptian Trade Unions (a national-level general federation).<sup>8</sup> This structure aimed to incorporate all unions into the General Federation of Egyptian Trade Unions, which is entirely controlled by the state.

It is worth mentioning that, according to the annual index of the International Trade Union Confederation for 2022, Egypt was among the ten worst countries in the world in terms of workers' rights, particularly due to repressive laws, restrictions on the right to strike, security crackdowns and trials of strikers, the arrest of unionists, and the marginalization of union activities. This assessment was based on several incidents of employers discriminating against unionists for their union activities, firing workers for participating in collective strikes.<sup>9</sup>

## WAGES AND ANNUAL BONUSES

The International Labour Organization (ILO) issued Convention No. 26 concerning Minimum Wage Fixing, which emphasized the freedom of each country to determine the methods for setting minimum wages for workers after consulting with trade unions, labor representatives, and employers equally.<sup>10</sup> These discussions should be binding for both workers and employers, and they should not be reduced through individual or collective agreements unless there is a general or specific authorization from the competent authority. Workers whose agreed-upon wages are reduced have the right to recover their wages through legal and judicial means.

5 <https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

6 "Every person has the right to form associations with others and to join the union of their choice, without any restriction except the rules of the relevant organization, for the purpose of promoting their economic and social interests and protecting them. The exercise of this right may not be subject to any restrictions other than those prescribed by law and necessary measures in a democratic society to maintain national security, public order, or to protect the rights and freedoms of others.

Trade unions have the right to establish national federations or confederations, and these federations have the right to form international trade union organizations or join them.

Trade unions have the right to exercise their activities freely, without any restrictions other than those prescribed by law and necessary measures in a democratic society to maintain national security, public order, or to protect the rights and freedoms of others."

7 The International Labour Conference, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, 1948, [ar\\_labor-watch.net\\_635351445920485276.pdf](http://ar_labor-watch.net_635351445920485276.pdf)

8 To access the full text of the law: Trade Unions Law and the Protection of Trade Union Organization Rights, Law No. 213 of 2017 | Legal Publications (manshurat.org) <https://manshurat.org/node/23046>

9 The International Trade Union Confederation (ITUC) Global Rights Index for 2022." n.d. Accessed July 26, 2023. Link [https://www.ituc-csi.org/IMG/pdf/2022\\_ituc\\_rights\\_index\\_exec\\_summ\\_ar-3.pdf](https://www.ituc-csi.org/IMG/pdf/2022_ituc_rights_index_exec_summ_ar-3.pdf)

10 International Labour Conference, Convention No. 26 concerning the Methods for Fixing Minimum Wage Rates, <http://hrlibrary.umn.edu/arabic/ilo-c026.pdf>

In Egypt, the National Wages Council is responsible for determining the minimum wages for workers in both the public and private sectors, as well as regulating annual bonuses, according to Article 3 of the current labor law. It states that 'workers subject to the provisions of this law are entitled to an annual bonus, the value of which shall not be less than 7% of the basic wage upon which social insurance contributions are calculated, payable on its due date, until the National Wages Council issues regulations for this bonus.'

## THE RIGHT TO PROTECTION AGAINST ARBITRARY DISMISSAL:

The International Labour Organization (ILO) has issued several recommendations regarding the regulation of employment termination, including Recommendation No. 119 and Recommendation No. 166. These recommendations set out certain controls for terminating the service of employees and workers, including the right of the worker whose employment is to be terminated to receive clear notice and a reasonable notice period before the contract termination. During the notice period, the worker should have the right to reasonable leave or paid time off to search for alternative employment. All relevant parties should also seek to avoid or minimize, as much as possible, dismissals for economic, technological, structural, or similar reasons without compromising the efficiency of the enterprise or service and mitigating any harmful effects of such terminations on the affected worker or workers. The right of the employer to terminate service due to misconduct is also considered, provided it is not exercised within a reasonable period. Employers may also consult worker representatives before making a final decision.<sup>11</sup>

Regarding the Egyptian Labor Law's treatment of the issue of employment termination, Article 68 of Egyptian Labor Law No. 12/2003 states that the labor court has jurisdiction over signing the service termination. Article 69 specifies the cases in which the termination of employment is permissible, which include:

1. Committing a serious offense, such as impersonation of a false identity and the presentation of forged documents.
2. Committing an offense that results in significant harm to the employer.
3. Repeated disregard for safety rules by the worker.
4. Unjustified and unreasonable absenteeism for specified periods.
5. Disclosure of the establishment's secrets.
6. Competing with the employer in the same business.
7. Being intoxicated or under the influence of drugs during working hours.
8. Assaulting the employer or the general manager.

Article 110 of the same law stipulates that if the employment contract is of an unspecified duration, either party may terminate it, provided that written notice is given to the other party before termination.<sup>12</sup>

11 R119 - Termination of Employment Recommendation, 1963 (No. 119): ilo.org/dyn/normlex/en/?p=NORMLEXPUB:55:0::55:P55\_TYPE,P55\_LANG,P55\_DOCUMENT,P55\_NODE:REC,en,R119,/Document.

12 Article 68 of the law states: "The competence to impose the penalty of dismissal from service shall be vested in the committee referred to in Article (71) of this law. The imposition of other disciplinary penalties on the employer or his authorized representative shall be made. The manager of the establishment shall impose the penalties of warning and deduction from wages for a period not exceeding three days."

Article 69 states: "The worker may not be dismissed except for a grave error. The following cases shall be considered as grave errors:

- If it is proven that the worker has assumed a false identity or presented forged documents.
- If it is proven that the worker committed an error that resulted in significant harm to the employer, provided that the employer reports the incident to the competent authorities within twenty-four hours of becoming aware of it.
- If the worker repeatedly fails to observe the necessary instructions for the safety of workers and the establishment, provided that these instructions are in writing and posted in a visible place, despite being warned in writing to that effect.
- If the worker is absent without reasonable justification for more than twenty days intermittently within one year or for more than ten consecutive days, provided that the dismissal is preceded by a written warning addressed to the worker by registered mail with acknowledgment of receipt from the employer after his absence for ten days in the first case and after his absence for five days in the second case.
- If it is proven that the worker disclosed the secrets of the establishment where he works, resulting in significant harm to the establishment.
- If the worker competes with the employer in the same activity.
- If the worker is found during working hours to be in a state of intoxication or under the influence of a narcotic substance.
- If it is proven that the worker assaulted the employer or the general manager, or if he committed

## RIGHTS OF WORKING WOMEN

The International Labour Organization has dedicated numerous conventions to ensure the protection of the rights of working women. These include Convention No. 89 of 1948 concerning Night Work of Women, and Convention No. 3 of 1952, which regulates maternity leave for pregnant female workers and was updated with Convention 183, which established a minimum paid maternity leave of no less than 14 weeks.

Article 91 of the Egyptian Labor Law states that “a female worker who has served an employer for ten months or more is entitled to maternity leave of ninety days with full compensation, including the period preceding and following childbirth. The female worker may not be employed during the forty-five days following childbirth. Maternity leave shall not be granted more than twice during the female worker’s period of service.”

## CFJ METHODOLOGY

CFJ adopts the principles presented during its work on Workers’ Rights. The project will conduct daily monitoring of everything related to violations that undermine those rights, such as various workers’ strike decisions, their reasons, and monitoring the administrative and security handling of them and labor leadership. The project will also monitor the elections of labor unions and associations and work on the various project outputs following a research methodology based on field and media monitoring, in addition to legal and research engagement with labor law and its amendments, as well as social protection policies for workers.

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a serious assault on one of his superiors during work or because of it.

- If the worker did not comply with the regulations specified in Articles (192) to (194) of this law.”

Article 110 states: “If the employment contract is of an unspecified duration, each of the parties may terminate it, provided that written notice is given to the other party before termination. The employer may not terminate this contract except within the limits of what is provided for in Article (69) of this law or the proven inefficiency of the worker in accordance with the regulations adopted. In all cases, the termination shall take place at a suitable time for the work circumstances, and the worker’s justified health, social, or economic conditions shall be taken into consideration.”



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