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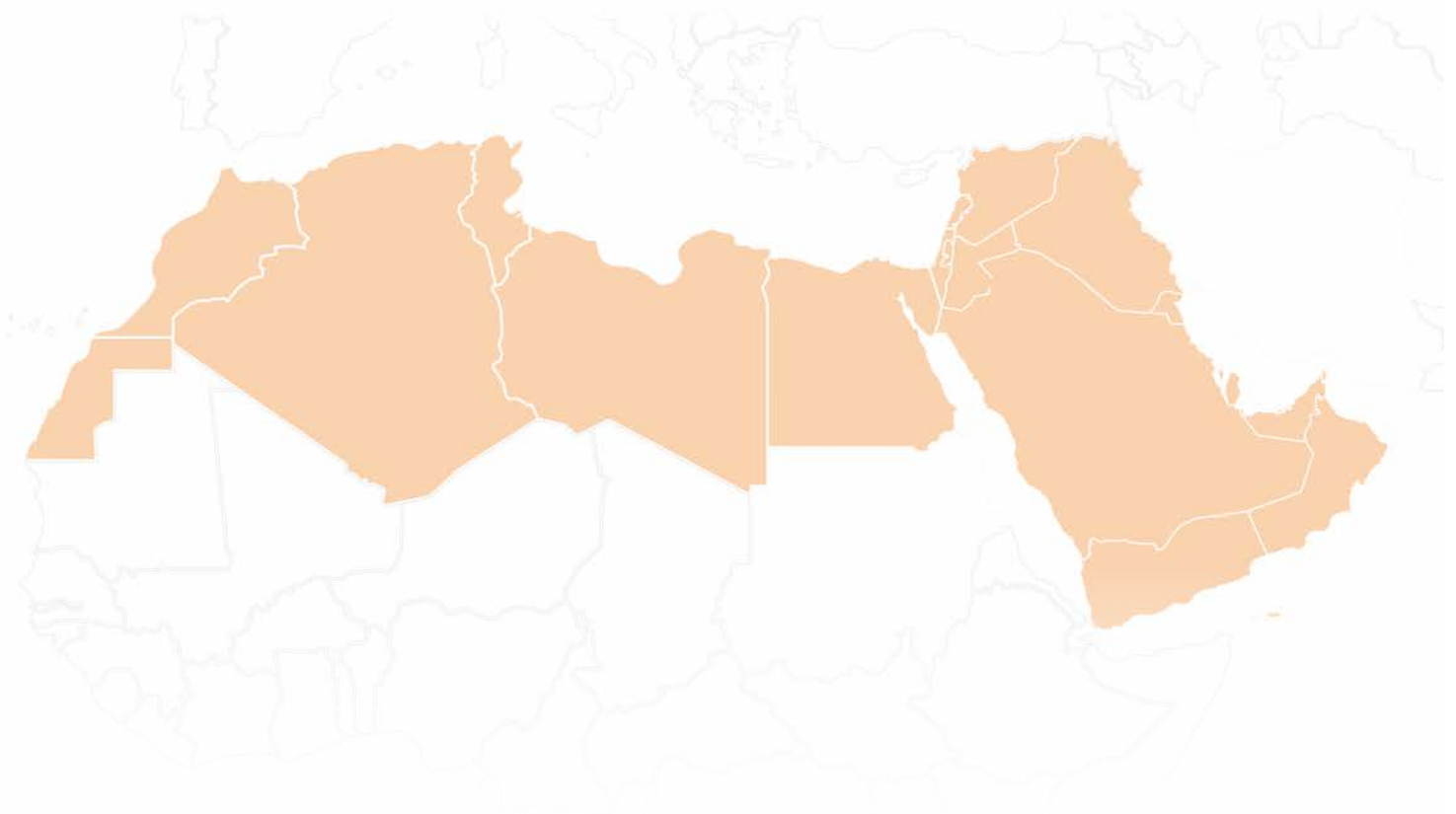


# WORKPLACE NEGOTIATIONS GUIDE

**MIDDLE EAST AND NORTH AFRICA (MENA) REGION**

**NRC**

**NORWEGIAN  
REFUGEE COUNCIL**



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# WORKPLACE NEGOTIATIONS GUIDE

## MIDDLE EAST AND NORTH AFRICA (MENA) REGION



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Wheat Farmer in Hawija, Iraq (Photo: Ahmed Kaka/NRC)



## 1 | Introduction and Aim of Guide

Workers around the world struggle to protect their right to decent work. Many work in dangerous environments, are not paid properly or at all, are dismissed arbitrarily or have no health or insurance coverage in case of work accidents. Employers are in a strong position and workers are reluctant to challenge them for fear of losing their jobs or causing problems in their work relationship.

The situation is especially tough for refugees or migrants working informally, such as those without work permits or legal status in a country. They feel they have no power to protect their rights because of their status. They are scared of losing their incomes, being reported to authorities or facing other types of protection risks, such as arrest, deportation, or violence from authorities or employers.

However, sometimes even **basic communication and negotiations skills in the workplace can help protect rights and resolve disputes in a non-confrontational way that minimizes the risk of harm.** This can result in a **better working environment and fairer conditions.** Discussions with employers to reach an acceptable agreement can be one of the best options workers can pursue.

**This guide provides some basic tips and guidance on negotiation and communication techniques in the workplace. Many of the tips are common sense skills in direct and effective communication, building relationships and finding compromises with employers. Different approaches can be used with different employers, depending upon their attitude and their relationship with workers.**

**Workers are in the best position to know the risks and consequences to them if they face a dispute with an employer, especially when they are in a vulnerable position. Ultimately it is a decision for workers whether to take action to protect their rights, and if so, how. There are many ways of raising work issues in a careful way that may improve the protection of work rights without any negative consequences. This guide looks at different options to improve conditions or create stronger positions for workers without creating any extra harm or risks. Many of the examples in the guide are based on the direct experience of workers.**

Outcomes differ from one case to the other depending on various elements including power dynamics between worker and employer, vulnerability, other available options for workers, profile of the employer, potential risks and the level of compromise that the worker is willing to consider. With negotiations, the goal is not necessarily to reach a settlement that will be fully satisfactory to the worker. Realistically, this can be hard to achieve in the context of persons working informally. **Instead the goal is to assist workers to advance their position with their employer and enjoy extra protections as a result of negotiations.**

The guide is intended for workers as well as legal or humanitarian professionals working with workers. Whilst the guide is particularly targeted towards vulnerable workers, including refugees, migrants or persons in informal or irregular employment, it can be used by all workers.

Different parts of the guide can be adapted and used for different purposes. The guide creates a menu of different approaches which can be used for different situations and contexts. Some workers may wish feel more confident about their rights without taking action, whilst other workers may want to resolve work rights dispute with their employer.

### Structure

The guide is structured into different sections. The **first part** provides a general introduction to the guide and usage of the guide. Following this, **section two** looks at the **right to work in international law**. It also sets out **basic labour standards** which can act as an important reference point. The **third part** of the guide focuses on **particularly vulnerable groups especially informal workers**. It highlights the **importance of trying to regularize employment, such as by obtaining work permits, where possible**. Other vulnerable groups include **women, youth and persons from minority backgrounds**. **Section four** covers **employment relationships, different types of workplace disputes and difficult work environments**. As many workers are scared of taking action for fear of losing jobs, the **fifth part** of the guide looks at **options for reducing or mitigating risks**. As workers are best protected if they have some knowledge of their rights, **section six** looks at **awareness raising on work rights**. The **seventh part** of the guide sets out a **self-assessment** model for workers to help them decide **whether they should take action and if so how**. This involves weighing the pros and cons and making an informed decision. **Section eight** focuses on **basic negotiations and communications skills** that workers can use to raise and resolve workplace issues themselves, taking account of any risks or consequences. The **ninth part** of the guide looks at **more advanced negotiations techniques and employer profiles**. **Section ten** includes a short section on **enforcement of agreements with employers** whilst **section eleven** of the guide provides guidance on **how third parties, including legal aid providers, can actively negotiate on behalf of workers**. The **last part** of the guide briefly covers **litigation**. The threat of litigation, in the right context, can be an effective tool in bringing employers to the negotiating table.

**Workers** can use the guide directly to develop communications and negotiations skills in the workplace and consider options for taking action. Many of the techniques are useful life skills for different situations, even beyond the workplace. The guidance on self-assessment can act as a checklist for weighing the risks and consequences of raising an issues with employer.

**Legal professionals as well as actors from the, humanitarian, development, livelihoods, youth or protection sectors,** can use the guide to support workers to understand their options. Tips and approaches for legal and humanitarian professionals negotiating on behalf of workers are also covered by the guide.

### Training

Learning from the experiences of others is useful where work rights protection is weak. As such, this guide is best used in an interactive training. Trainers should **provide guidance on effective communication and negotiation skills** but at the same time **facilitate discussions with workers during the training on how they deal with disputes arising in the workplace**. This will keep the content of the training relevant and grounded in the daily, practical experience of workers.

Two sample training agendas are included in the annex to the Guide. The first is a two-day Train the Trainer workshop. This is intended to train staff on how to conduct the training with workers. The second agenda is a one-day training plan for workers. Both agendas can be adapted as necessary, but should include space for group discussion and mutual learning.



A training programme for workers should include:

- ✓ Use of the self-assessment checklist on common disputes faced by workers,
- ✓ Group exercises to test different negotiation approaches in different contexts,
- ✓ Role plays using different employer profiles,
- ✓ Discussions amongst participants about different situations faced in the workplace and approaches used to deal with those situations.

Prior to conducting the training, it's useful to undertake a consultation exercise to understand the context, including common types of disputes, protection risks and work rights practices. Different types of workers face different challenges. For example, agricultural workers may face different problems to domestic workers, or youth starting work for the first time.

After the training session, trainers should follow up with workers to see if they have used any of these communication skills in the workplace and if yes, what the results were. Experiences, both positive and negative, can be fed back into future trainings.



Palestinian Olive Harvest (Photo: Michael Loadenthal, Creative Commons)





Workers on King Abdullah Canal, Jordan (Photo: Tina Abu Hanna/NRC)



## 2 | Right to work in international law

### 2 1 Human right to work

As a starting point, it's important for all workers to understand the existence of the **international human right to work**. This means that **all persons** have the right to work in paid employment, regardless of their situation. The rules on whether a non-national, such as a migrant or refugee, can work legally in a country and under what circumstances, are set by the national laws, regulations and policies in the country.

The right of all persons to work is contained in Universal Declaration of Human Rights (UDHR).<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises:

*the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.*<sup>2</sup>

Men and women must be provided with equal access to the right to work on a non-discriminatory basis.<sup>3</sup>

The Refugee Convention guarantees refugees who are lawfully resident in a country the right to wage earning employment on the same basis as foreign nationals in the country.<sup>4</sup> Additionally, any restrictions on the right to work of refugees, such as limited eligibility for work permits or restrictions on quotas or sectors of work open to refugees, should not be applied to refugees after three years of residence in a country.<sup>5</sup> In other words, countries hosting refugees should allow them full access to the labour market after an initial period of residency of three years.

In practice most countries in the Middle East have not signed the Refugee Convention and have not committed to this principle.<sup>6</sup> Many host countries impose restrictions on access to the national labour market for refugees. However, some countries, such as Jordan and the Kurdistan Region of Iraq (KRI) within Iraq, have relaxed some work restrictions for refugees.

- 1 Article 23 of the Universal Declaration of Human Rights (UDHR).
- 2 Article 6 of International Covenant on Economic, Social and Cultural Rights (ICESCR).
- 3 ICESCR, Article 3.
- 4 Article 17(1) of Refugee Convention.
- 5 Article 17(2) of Refugee Convention.
- 6 Within the Middle East, only Iran, Israel, Egypt and Yemen have signed the Refugee Convention.

## 2 2 International labour standards

The International Labour Organisation (ILO) is the UN agency responsible for promoting the right to work and setting international labour standards. Its mandate is to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.<sup>7</sup>

The ILO provides a large amount of information about international labour conventions and conducts research on work-related issues. It also maintains country pages with information about the labour laws of most countries of the world.

**The 5 ILO fundamental labour standards are:**

- ✓ Freedom of association,
- ✓ Elimination of forced labour,
- ✓ Abolition of child labour,
- ✓ Elimination of discrimination in employment,
- ✓ Safe and healthy working environment.

**Key labour rights** include the following:<sup>8</sup>

- ✓ Prohibition on termination of employment without a valid reason,
- ✓ Regular payment of wages, protection of wages and minimum wages,
- ✓ Framework for regulated hours of work, daily and weekly rest periods and annual holidays,
- ✓ Protection from occupational sickness, disease and injury,
- ✓ Provision of social security which protects against life risks and social needs, including old age, sickness, unemployment, death benefits, and family issues,
- ✓ Vocational guidance and training,
- ✓ Protection for working women, including maternity cover and childcare and family support.

<sup>7</sup> [ILO Home Page](#).

<sup>8</sup> Summarised from [ILO International Labour Standards](#).





### 3 | Challenges for vulnerable workers, including informal workers

#### 2 1 Informal workers

Whilst the guide can be used for all workers, whether working formally or informally, it is especially relevant for informal workers who are particularly vulnerable on account of their status.

**Informal work** is a broad designation.<sup>9</sup> It includes **persons who are working without authorization, those working in unregistered businesses or persons who are not registered for work rights purposes with authorities.** It can include foreign nationals, such as refugees or migrants, who are working without a work permit, employer sponsorship or legal residency or those who are working in a different sector to that listed in their work permit. It can also include persons working for unregistered businesses, regardless whether they are nationals or non-nationals.

Some employers do not register employees with authorities in order to avoid paying social security, workplace insurance or taxation. Informal work also covers persons who work ad hoc or casually and who are not formally employed or registered and are often unable to claim their rights, such as daily workers. Up to 60% of the global workforce is estimated to be working in the informal sector.<sup>10</sup> ILO has extensive resources on the informal economy and its impact on worker's rights.<sup>11</sup>

Whilst persons in formal or regular employment face challenges in claiming work rights, persons in informal employment are much more reluctant to raise work rights issues with employers or to approach authorities or courts on account of their irregular status.

Despite the fact that all workers are entitled to fair working conditions, informal workers often feel that their bargaining position is close to zero and the consequences of loss of job, deportation or other risks are too high. Lack of information about legal rights is also a key disabling factor, preventing informal workers from claiming their work rights or negotiating with their employer to reach a fair settlement.

9 The ILO defines the term 'informal economy' as "all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that – although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs." [ILO Informal Economy and Atypical Forms of Employment](#).

10 IMF, ['Five Things to Know about the Informal Economy'](#) 28 July 2021.

11 [ILO and the Informal Economy](#).

Lack of work contracts is also common throughout the Middle East. In countries like Lebanon and Jordan, there's no legal obligation on employers to provide a written contract under the Labour Law.<sup>12</sup> It's no surprise that those working informally or in seasonal work settings such as the agriculture, construction and services sectors, typically operate without a written contract. In the event of dispute, the only option is to seek witnesses from the workplace to verify contract elements such as working hours, nature of work and pay.

### 3 2 Formalising employment

Possession of formal employment status is a critical springboard for protection of work rights. **As such, a first priority is to explore any realistic possibilities for formalising or legalising the employment status of informal workers. This can include helping workers apply for work permits (where possible), legalising their residency status, supporting them to obtain written employment contracts or otherwise assisting them regularise their status with authorities, such as helping them register for social security, workplace insurance or taxation.** Having formal employment status and registration with authorities makes it easier to access formal workplace dispute resolution mechanisms including courts for labour disputes or other types of workplace arbitration or mediation processes. In practice, the vast majority of non-nationals in informal employment are extremely reluctant to take action to claim their rights through courts or official bodies.

However, formalising employment is not realistic for many persons. Many refugees are ineligible for work permits or legal residency. Employer sponsorship requirements can be difficult whilst applications for work permits or legal residency can be costly and complex. Some employers do not want to register their business or employees in order to avoid paying tax and social insurance contributions. Some workers also prefer to work informally rather than paying tax and contributing to social assistance schemes for which they see little financial benefit. They often prefer the flexibility of informal work which allows them to move between work sectors and employers and avoid the attention of authorities. In some contexts (such as Jordan and Lebanon), refugees' ability to perform legal work is conditional upon renouncing international protection.<sup>13</sup> The most important first step is for workers to inform themselves of any legal options for regularising their legal status. Even if it's not presently possible or realistic, circumstances may change later and they should keep up to date with developments.



#### Case Study – Legalising Informal Work

In 2017 the Jordanian government passed an amnesty, permitting Syrian refugees who had left camps without permission prior to July 2017 to legalise their status in the community and obtain Ministry of Interior residency cards. This meant that those Syrian refugees were also then eligible for work permits. This resulted in the regularization of the legal status of up to 23,000 Syrian refugees; many of whom began working legally with work permits.

### 3 3 Vulnerable groups

Certain other groups of workers are especially vulnerable to exploitation or face extra challenges in raising issues in the workplace. These can include; female workers, youth, persons with disabilities, elderly workers or workers from minorities or ethnic groups. Persons in these categories might need extra support in protecting their rights. Common situations can include the following:

- 12 Under Article 2 of the Jordan Labour Law, and Article 12 of the Lebanon Labour Code, employment contracts can be either written or verbal.
- 13 In Jordan, any non-Syrian refugee who holds an Asylum Seekers Certificate (ASC) and wishes to apply for a work permit, should renounce his or her ASC in order to be granted a work permit. See [NRC Guide to Employment Rights in Jordan](#), July 2023, p 33. In Lebanon, refugees registered with UNHCR must submit a pledge not to work in Lebanon. See NRC 'Guide to Employment Rights in Lebanon', March 2023, p 36.

- **Female workers.** Female workers may face discrimination or sexual harassment in the workplace, especially in a predominantly male workplace. More generally they may be the victim of patriarchal attitudes, including denial of promotion or being limited to certain types of duties in the workplace or labour market which are considered more suitable for them. They may feel uncomfortable raising certain issues with male supervisors. They are more vulnerable to being dismissed if they are pregnant and may face difficulties in finding suitable or flexible work if they can only work part-time on account of family responsibilities. They may need to take time off work for childcare or family matters, including sick children, but feel uncomfortable asking for time off. They may also be paid less than their male colleagues for the same work. If they have been out of the workforce for some time to raise children, they may find it more difficult to re-enter the workforce.

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- **Youth.** Young persons, especially persons between 15-24, who are working in their first jobs or doing vocational training, may be more reluctant to raise work issues. They are likely to be less aware of their rights than older, more experienced workers and may not know of special protections for young persons under the labour law, such as minimum working ages and limits on difficult and dangerous work for young persons. Unemployment rates for young persons are high and they may be even more scared of losing first jobs.

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- **Persons with disabilities.** Depending on their level of disability it may be hard for persons with physical or mental impairments to find work or suitable work that they can do. They may face discrimination in the workplace or be reluctant to ask for help to avoid highlighting their disability. Nor may they know of work rights protections for persons with disabilities, including for persons injured in the workplace. Registration with social security may be particularly important for persons with disabilities in order for them to claim medical benefits or disability pensions.

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- **Older workers.** Persons aged 50 and over may find it harder to find work on account of their age, especially if they are close to retirement age. If they haven't been able to keep their skills up they may find it harder to compete with younger persons, especially those with good tech skills. Inclusion in social security schemes may be particularly important for them in order to access retirement pensions, as well as coverage for health or sickness in the workplace.

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- **Members of minority or ethnic groups, including migrant workers and refugees.** Some groups of workers from particular countries or ethnic backgrounds face racial discrimination, harassment or abuse in the workplace. This can be because of racist attitudes or prejudice. Some non-nationals or refugees may be perceived as taking local jobs. Migrants or refugees performing low-skilled or menial work, such as cleaning or domestic work, may be subject to discriminatory attitudes. Workers facing discrimination or harassment may be reluctant to take action or report such incidents to employers or the police.

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- **Casual or daily workers.** Persons who are working as daily workers or on an ad hoc basis to make ends meet are in an especially vulnerable position. They are not in an ongoing employment relationship and may rely on any work they can find. Often they are performing unskilled labour, meaning there is a large supply of alternative workers if they complain.



### Case Study – Discrimination

A sum of money was lost at the workplace of a migrant worker in Beirut who was indirectly blamed and accused of the loss. He said that "I felt that everyone was looking at me as a migrant worker. They took the key of the store from me and would wait on me while I cleaned. I stayed for two months and then left."



### Case Study – Dismissal on account of pregnancy

A female worker approached NRC in Damascus after an information session on work rights. About a year earlier her employer had dismissed her because she was pregnant. He said that he wasn't going to pay for a worker who wasn't working. She told NRC that if she had known of her rights to maternity leave under the law, she would have challenged the employer.





Carpenters in Lebanon (Photo: Charbel Kousseifi/NRC)



## 4 | Employment relationships, disputes and working environments

### 4 1 | Employment relationships and work permits

Although many refugees or migrants may be working without a work permit it is important to understand that in most countries the legal relationship between **employer and employee** is different to the legal relationship between **a worker and the government**.

An employee may still be able to claim unpaid wages and other work entitlements directly from an employer despite not having a work permit.<sup>14</sup> This is because the **contractual relationship** between employee and employer is separate to the **administrative relationship** between the worker and the government. Informal workers still have a right to be paid for their work by the person who contracted them for this work. This is a civil law matter between the worker and the employer.

In practice, however, many informal workers are extremely reluctant to take legal action against an employer for fear of being reported to the attention of authorities who may penalise them for working without a permit. Conversely, employers may also sometimes be reluctant for authorities to know they have been employing workers without valid work permits. **Nevertheless, it is important for informal workers to understand their right to claim against an employer, separately from their legal residency/work permit status in a country.**

### 4 2 | Difficult workplace environments

Informal workers, including refugees, migrants and internally displaced persons, often have to navigate especially difficult work environments. Competition for jobs is intense in situations of displacement and refugees are often accused of taking job opportunities from nationals. Sometimes they receive lower pay for the same work. Internally displaced persons are often forced to flee in large numbers to overcrowded settings, such as camps, or remote areas, where job opportunities are limited.

National governments impose restrictions on the type of work that refugees or migrants can perform. This includes limiting work to open sectors which often involve lower paid menial work or imposing quotas on number of foreign nationals in a workplace.

14 See for example, [NRC Legalising Labour: Work Rights and Conditions for Syrian Refugees in Jordan](#), 2017, p 17.

Employer sponsorship can be problematic as it ties a worker directly to an employer who may abuse their position of power. Persons who are working informally or irregularly face the extra stress of worrying about whether they will come to the attention of authorities and face fines, arrest or other types of penalties for working without a permit, such as deportation from a country.

Employers often take advantage of this financial, legal and social vulnerability, particularly where there is little enforcement of labour rights by authorities and where there is an easily accessible source of alternative labour. In situations where work and accommodation are combined, such as persons living on farms rent-free, as security guards on-site or as live-in carers, loss of job also means loss of a place to live. These conditions create a difficult environment in which to challenge employers about unfair working conditions and rates of pay.

**Workers must think carefully about the most effective and low risk ways of asserting their rights within such a context.**



### Case Studies – Threats of deportation

Migrant workers in Lebanon often report receiving threats by employers. One participant in a recent Focus Group Discussion reported that "My employer wanted to deport me and threatened to call the police. I am now talking to people to find other jobs, and I managed to find some work."



4 3

### Common workplace disputes

Workplace disputes are common all over the world. Common work disputes include the following:

- Unpaid, underpaid or delayed wages,
- Unfair dismissals, such as for no valid reason or with inadequate notice,
- Working overtime for no pay,
- Workplace injuries with no health coverage or inadequate medical treatment following injury,
- Excessive working hours,
- Lack of leave entitlements, including holiday leave or sick leave,
- Unsafe or dangerous working conditions,
- Non-registration in social insurance schemes
- Confiscation of documents, such as passports, by employers,
- Work for rent problems; free accommodation but without a salary,
- Discrimination in the workplace, including different rates of pay for national and foreign workers, or between males and females, gender discrimination such as dismissal for pregnancy or refusal to honour maternity leave.

Different approaches may be necessary for different types of disputes, depending on their severity or impact on the worker. A worker who has lost their job, for example, may have less to lose than a worker who is in ongoing employment and does not want to affect the ongoing relationship. A worker may be prepared to work extra hours once or twice but not when it becomes a regular pattern.



Empty handed, Lebanon (Photo: Sherbel Dissi/NRC)



## 5 | Risks and risk mitigation

### 5.1 Risks associated with employer disputes

Workers face multiple risks if raising workplace concerns with employers, including loss of their job or coming to the attention of authorities if working informally. They may also face consequences from employers, such as threats, intimidation or even physical abuse.

General risks for workers in workplace disputes can include the following:

- Loss of job and income. This can result in risk of inability to cover basic needs including food, rent, utilities, health care and education.
- Risk of eviction on account of inability to pay rent following loss of job,
- Loss of future working opportunities with other employers in the region if employee is labelled as a 'troublemaker',
- Threats or violence from employer targeting the worker and/or worker's family members,
- Wrongful criminal accusations, such as theft from the workplace, made against a worker to the police,
- Fear and feeling unsafe,
- Harassment and or discrimination in the workplace,
- Being demoted or being asked to perform dangerous, demeaning, or difficult work,
- Sexual harassment or abuse, especially, but not only, for female workers,
- Racial, religious or other forms of discrimination, particularly for workers from minority backgrounds, including national, ethnic or religious backgrounds.



All of these risks should be carefully weighed when deciding whether or not to challenge employers on work-related issues.

Should a worker face protection risks, such as sexual harassment or SGBV, exploitation or other forms of risk or harm, they should contact protection actors who may be able to provide direct support or make referrals to specialized service providers. Humanitarian agencies can provide details of relevant protection actors.

## 5 2 Particular risks for informal workers

Informal workers face additional risks. These include the following:

- Risk of detention, arrest or deportation by authorities for working without a work permit,
- Being fined for working illegally,
- Confiscation of documents, including passports, by employers,
- Risk of exploitation by employer taking advantage of the irregular work or residency status of the worker,
- Being placed on an official list of absconded workers who have left employment, such as in Lebanon,

Many of these risks involve serious consequences for informal workers. There are strong reasons why workers may not want to jeopardise their situation in any way if working informally.

**Persons working with informal workers should ask what risks workers may face in claiming work rights. This can help with developing strategies to reduce or avoid risk.**

## 5 3 Approaches to reducing or mitigating risk

**Workers are in the best position to assess the personal risks they may face.** However, external persons, such as friends, co-workers, community workers or other professionals including lawyers or humanitarian workers, may be able to help workers brainstorm on the various risks and pros and cons, including any advantages of taking action to protect rights.

The following table outlines some common risks and possible ways of dealing with them or at least mitigating the impact. These will not be suitable in all cases and are provided as examples of possible approaches. Workers will have to decide themselves what the risks are to them and what the best approach is.

Fear or risk	Possible approach
Fear of dismissal or loss of job	If the worker has been working with the employer for a long time and has a good relationship it may be worth emphasising the past good relationship. It may be hard for the employer to find someone who has the same skills in a short time. In other cases, there may be ways of carefully raising an issue that doesn't result in a hostile reaction from an employer.

Fear or risk	Possible approach
Threats by employer to report worker to authorities for working without a work permit	Workers should get advice on how to obtain a permit or regularise the work situation, if possible. This could involve speaking with a lawyer to understand their legal options. Employers may also be at risk for employing persons without a work permit. If it's not possible to regularize the work situation, workers may need to be careful with the employer or find another employer.
Risk of arrest/detention/deportation for working without a work permit.	If a worker fears being arrested, detained or deported for working without a permit they should to speak to a lawyer and/or UNHCR urgently. Workers may sometimes be asked by authorities to sign a document guaranteeing that they won't work without a permit in the future. If possible they should seek legal advice before signing.
Risk of threats, violence or reprisal by employer including false accusations made to police.	Workers should take reasonable precautions and avoid any situations in which they may be at risk. This could involve keeping a low profile, and seeking to reduce any tensions in the workplace. If a criminal accusation is made, workers should see a lawyer.
Risk of being labelled a troublemaker by employer	To avoid such labelling, workers should try and raise the work issue in a respectful and non-confrontational way. Sometimes increased respect for work conditions by the employer can make a more productive workplace with better staff morale.



### Case Study - Migrant worker in slave like conditions in Jordan

A Sri Lankan domestic worker was recruited to Jordan for a wage of JOD70 a month to care for an elderly lady and to clean the home of her male sponsor and his daughter. After three years on a work permit, the permit lapsed and the employer did not extend it. The domestic worker worked for the family for 22 years without any payment. Finally, the worker contacted local legal aid provider Tamkeen, who referred the case to the Jordanian Counter-Trafficking Unit. The worker confirmed that she did not receive any wages, was denied contact with her family, and banned from travelling. The case was referred to the prosecutor who charged the employer with violating the provisions of the Jordanian Labor Law by not providing the worker with her wages as well as the misdemeanor of illegal possession of a passport, as well as. The employer was convicted and fined JOD100 only. Tamkeen then commenced negotiations with the employer about damages and compensation. In the end the employer agreed to pay the worker JOD37,000 in compensation. An immediate lump sum of JOD20,000 was paid with the rest to be paid in installments of JOD200 per month. The employer also agreed to cover the cost of the overdue residency fees for 19 years and the cost of the worker's ticket home. The agreement was signed and a copy given to the Sri Lankan Embassy.



### Case Study – Accusations of theft

An employer in Damascus dismissed a female employee in a clothes shop after falsely accusing her of having stolen clothes. The staff member was shocked and scared and did not do anything to challenge the false accusation. She said the employer had made up the accusation in order to get rid of her.





Rights awareness in Iraq, (Photo: Beate Simarud/NRC)



## 6 | Rights Awareness

### 6.1 Rights awareness leading to rights protection

**Protecting work rights starts with knowing your work rights. Workers are best protected and able to defend their rights by understanding their rights under national labour law, even if they are working without a permit or in informal employment and don't feel they can exercise their rights in practice.**

Workers can still claim work rights, including unpaid wages, under their contractual relationship with an employer even if they don't have a work permit. Workers also have the right to report abuse, harassment and violence at workplace.

Even a basic knowledge of work rights and entitlements can give workers a point of comparison between the rights in the law and their rights in practice to allow them to measure the gap in entitlements. They may find that employers comply with some work rights but not with others. Understanding the gap in entitlements can also give workers something to work towards in order to try and reduce the gap.

A further advantage is the confidence that a worker has in dealing with employers when they understand their rights. An employer is more likely to take advantage of a person who doesn't have any idea of their rights or entitlements when compared to a worker who knows their rights and asks relevant questions. This may help a worker protect their rights from the start of the work relationship and put them in a stronger bargaining relationship.

For future working opportunities, knowledge of rights puts the worker in a better position to discuss working terms and conditions with the employer before agreeing to take a new job. They may also get greater benefit from a legal counseling consultation during which they can discuss their individual situation with a lawyer.





## Case Studies – Relevance of work rights information

The following quotes on relevance of information on employment rights were provided by workers in Focus Group Discussions in Lebanon:

- "The lawyer explained the information well, but I was not focused. I, as a Syrian person, do not benefit from the labor law because in this country we are second-class citizens and we cannot obtain our rights."

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- "The lawyer explained to us that if we are injured during the working hours, the employer is responsible from our medical care."

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- "I remember that the lawyer told us that the employer does not have the rights to fire us from the work without a notice period."

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- "You can raise your voice and claim your rights when you know your rights and duties."

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- "I will face issues by myself. I can solve the problem by myself without any intervention by anyone because I know my rights."

## 6 2 Effective information delivery

Available literature indicates that people only absorb a small amount of the information they hear.<sup>15</sup> For biggest impact, information should be delivered in an interactive, targeted and practical way where possible. This includes knowing the topics of most relevance to particular groups of workers. For example, the information relevant to youth workers taking their first job may be different to the information relevant to female workers with child care responsibilities. Practical examples can help participants remember key messages and situations. Different approaches may also be necessary for workers with limited education or literacy. In such cases information can be communicated in a simpler, more visual or more interactive way.

15 Indegene, [Understanding the Science Behind Learning Retention](#); University of Minnesota, [Understanding How and Why We Listen](#); Wright State University, [Effective Listening](#).



Migrants at Egyptian-Libyan border (Photo: EU Civil Protection and Humanitarian Aid, Creative Commons)





Welding by Syrian youth, Jordan (Photo: Beate Simarud/NRC)



## 7 | Self-assessing risks

When faced with a work rights issue, a worker must first decide whether to take any action. This involves weighing the pros and cons through a process of **self-assessment**. Depending on the significance of the issue or the chances of getting a good result it may - or may not - be worth it. To better understand the pros and cons a worker can ask themselves the following questions:

- ✓ **How important is this work right issue for me?** If the issue is significant, such as loss of employment or non-payment of wages, it might be worth doing something about. If it's an isolated or minor incident, it might be best left alone, unless there's a pattern of such incidents.
- ✓ **What's the general attitude of my employer?** Is he or she reasonable, aggressive, always busy, open to compromises, hostile? [refer to section 9.2 on Employer Profiles]
- ✓ **What's the position of my employer on this issue?** What will be his/her response if I raise the issue with him/her? What are the negotiable aspects of the issue? From my interaction with the employer, what are the issues that I can raise easily with him/her? What are the issues that require proper preparation to raise? What are the issues that my employer is not open to discuss?
- ✓ **What are the possible risks for me if I raise the issue with my employer?** Risks can include poor relationship with the employer, harassment or intimidation at work, transfer to other duties in the workplace, problems with co-workers, dismissal or loss of job, difficulties in finding a new job, being reported to authorities for working without a permit, including possible arrest and detention. The consequences will depend on the employer but also on the way you raise the issue with the employer. Do I know what to do if a protection risk arises, and where to seek support if protection issues arise or in case of escalation of dispute?
- ✓ **Do I know all the relevant facts about the issue?** What's the background of the issue? How did it develop? Do I need any more information? When there's a dispute between two parties you may not have all the information from the other side of the dispute. This can be really important when deciding whether to take action and if so, how. Is there a space for me to collect more information from the other party or third parties?
- ✓ **Do I know my work rights and entitlements?** Is what I'm asking for based on my rights in the law? Do I have a trusted source to validate my information or to get information about my work rights? If not, do I know whom to reach out to, in order to get more information about my legal rights and employer obligations?
- ✓ **Does it affect other workers as well?** If the issue affects other workers will other workers take any action? Does the work environment and the employer profile allow for collective action, or would this generate more risks?

- ✓ **What are the strengths, if any, in my bargaining position?** Does my employer like me? Do we have a good relationship? Will he or she be open to reasonable compromise? Do I have a special skill that will be hard for my employer to find at short notice? Will it be time-consuming for the employer to find a new person to train? Does the employer trust me? Does the employer know that my intention is to claim my right and not to challenge him/her? Would they take my views on board?
- ✓ **If working informally, is there anything I can do to legalise my status so that I can better claim my rights without fear of consequences?** If I don't know, then who can I approach to get extra information?
- ✓ **When is the right time to raise the issue?** Is the employer very busy with other important issues? Can I identify the right moment to talk to him/her? Would I get their attention? If the employer is busy with other important work issues, you might consider delaying raising the issue depending on its urgency and severity.
- ✓ **What are the consequences of raising the issue?** Also, what are the consequences or a fading opportunity if negotiations don't take place or an agreement is not reached.
- ✓ **Do I need to involve other parties?** In some cases, external parties can have a good influence on the employer when considering your position or asks. In other cases, involving third parties can escalate the issue and leave little space for bargaining, especially with an employer who cares a lot about their reputation among workers and other employers.
- ✓ **Reflect on the interest of the employer.** What would be his/her interest to consider my demand? Does he/she appreciate my work? Are they willing to lose the opportunity to work with me?
- ✓ **Do I feel comfortable and ready to express my views, position, needs?**

Assessment of the pros and cons make it easier to reach a decision about what to do. Even if a person decides that there's nothing that can be done it can still be useful to speak to family, friends, co-workers, a trusted person in the community or even a professional such as a lawyer. They can help to brainstorm on different approaches or perspectives that the worker may not have considered.

Following the self-assessment the worker can decide which action to take, either:

- > **Do nothing.**
- > **Raise the issue with the employer and go for negotiations.**

If the worker decides to raise the issue with the employer, the following section sets out information on negotiations, tips on the best approaches to communication and bargaining and tips to understand the employer's profile and define strategies in dealing with them.







Tomato farmer in Basra, Iraq (Photo: Ahmed Kaka/NRC)



## 8 | Basic communication and negotiation skills

### 8 1 Negotiations

If the worker has decided to raise the workplace issue with the employer following self-assessment of pros and cons, there are different ways of approaching the issue in ways which minimize risks. The issue can be raised in any way which seems appropriate and which might get a positive response from the employer. It can be raised in an indirect, light, friendly, and respectful way, or in a direct, serious, clear but still respectful way. It need not cause conflict or make the employer angry. If the employer is annoyed the worker can back off without causing a breakdown in the relationship. Understanding different communication and negotiations techniques can be useful in many different life situations, particularly for persons in weaker bargaining situations.

**Negotiation involves communication, bargaining, advocating for one's own rights and interests and finding common ground between two parties in dispute.** Ideally negotiations can lead to a mutually acceptable agreement to resolve a problem. In the refugee context, one cannot assume reaching best results, due to the imbalance of power between parties especially if one of the parties is an informal worker. The aim is to achieve the best outcomes as a result of negotiations, however this depends on each case and the level of compromise that can be made. If best outcomes (satisfactory for both parties) cannot be achieved, negotiations can alternatively help to advance the rights of the disadvantaged/most vulnerable party, and result in a better position for the worker compared to their situation prior to the negotiations.

If the worker has raised the work rights issue with the employer and he/she is open to further discussions, it's a good chance to try and negotiate the best outcome. The worker is in the best situation to know how far he or she can push the employer. Some issues might be resolved quickly whilst other issues might require time. The worker can decide to lead the negotiations directly with the employer, or in some cases, they might choose to involve a third party to represent them in the process.

**Effective negotiations** will depend on a series of factors. These include:

- Whether the issue concerns you as an individual or whether other workers are involved,
- Whether you're still working with the same employer or whether you've finished, perhaps because you've resigned or lost your job,
- If you're a non-national, whether you have a work permit,
- Whether you have a written work contract or a verbal agreement with an employer,

- How long you have been working for the employer,
- Whether the employer has registered you with the national insurance scheme,
- Whether you have other employment options or not,
- How you assess your bargaining position. Are you prepared to settle for something small or is this a significant issue for you?



8 2

## Communication Skills during negotiations

**Good communication skills are the single most important tool for a person in claiming their rights and resolving disputes.** A person who can present their position in a clear and compelling way may persuade the employer that they are being reasonable and should get what they're asking for.

Of course, employers know that employees are generally in a weak position and may refuse to compromise. Or they may be annoyed that the worker has raised the issue. Despite this, communicating the issues to the employer in the clearest and most non-confrontational way can often be the first step to finding a solution.

Good approaches for raising workplace issues with employers include the following:

- ✓ **Plan how to raise the issue.** It's a good idea to practice raising the issue in advance so that you sound clear and confident. Practice a couple of times until you're happy with your approach.
- ✓ **Keep your requests clear and simple.** A complicated or overly detailed explanation may sometimes confuse the employer. Focus on the core issue you want to raise; the most important aspect for you. Once the employer understands the issue, and if he/she is open for discussions you can add further details later.
- ✓ **Be calm, diplomatic and reasonable.** By raising the issue in a calm and reasonable way you're more likely to get a positive reaction. Taking time for self-assessment (section 7 above) allows you to identify your priorities, define your bargaining space and be ready to raise the issue in a calm manner. You might choose not to raise the issue right away and reflect, calm down then go with a proposal and structured ideas.
- ✓ **Don't challenge the employer.** Avoid getting angry and challenging the employer, even if the employer gets angry with you. Stay calm, especially if you think that the employer can escalate the dispute, if risks can arise after raising the issue with them, or in case the reaction of the employer is likely to be unpredictable.
- ✓ **Focus on some key asks.** Think about the key points and main requests you want to focus on with your employer. Prioritize the most important issues you want to raise and define the level of compromise you're willing to make.
- ✓ **Pick the right time and location.** Choose the time you think the employer will be in the most receptive mood. Raising an issue with the employer as he/she is getting ready to go home may not be the best time. Choose a location that is discrete and private so as not to put the employer in an awkward situation. Don't raise the issue in front of other employees or in a public space which could result in an argument in front of others or the employer feeling defensive.
- ✓ **Know your facts.** Make sure you know the facts of the dispute and present them in a clear way. Avoid being taken by surprise by new facts you weren't aware of that are relevant to your case.
- ✓ **Know your position.** Do you have a clear position? Or are you open to discuss and find solutions? It's always better to have one or more proposals that you can present to the employer.
- ✓ **Keep any questions specific.** If you need more information, ask the employer for clarification or for further information. Keep your questions specific to avoid vague or general responses. Support any questions with facts. Don't give the employer the feeling that you are questioning them, but rather show them that you are trying to understand the situation and their position and find a common ground.



- ✓ **Open up a space for discussion with the employer.** Ask the employer if he/she has time to discuss the issue. Ask them what suggestions they have for resolving the issue. Even if you have a proposal, show that you're open to ideas and want to work towards a solution.
- ✓ **Choose the right approach.** There are different ways of raising an issue with an employer. You may ask directly with a deadline for action, such as in relation to unpaid wages. You may raise an issue clearly but indirectly to sense the employer's reaction, such as in relation to poor working conditions. Or you might just ask the employer to think about an issue you've raised for a couple of days to see if they can think of a solution. Choose your words carefully and use positive phrases. Avoid pointless arguments.
- ✓ **Get your employer on side.** Pick issues that you have in common and values that the employer shares. Examples could include, "I know that everyone's suffering on account of the economic situation, including businesses and business owners, but the delays in my salary makes it really hard to pay the rent", or "When we're exhausted in the workplace it's harder for us meet our targets. I've got some suggestions to make the workload better for everyone."
- ✓ **Highlight positives, including good past relationships.** Tell your employer any of the things you enjoy about the work or workplace. If you've had a good relationship in the past mention it to show that you are not just being negative.
- ✓ **Listen carefully.** By listening attentively you'll show respect, patience and your willingness to find a solution. You may be able to find areas of agreement and common ground with the employer.
- ✓ **Be prepared for different reactions by the employer.** Anticipate different responses by the employer, including surprise, hostility, frustration, anger but also openness to finding a solution. Think about how you would respond in different situations.
- ✓ **Use good body language.** Body language can escalate or de-escalate a dispute. It can show respect and attention but it can also show fear, disinterest, seem threatening or can give the impression that you are listening or not listening to your employer. Be open and respectful, don't act defensively, look the employer in the eyes. Pick up on the employer's body language as well.
- ✓ **Avoid confrontation.** If the employer becomes hostile or angry, find ways to calm the situation. Don't interrupt the employer and listen to what they have to say. If you feel that the employer is escalating the issue and you feel threatened, you should try end the discussion on a positive note and avoid exposure to risks.
- ✓ **Show appreciation at various stages of the exchange.** if your employer is open to considering your position, if he/she acknowledges the facts you are stating or is willing to compromise.
- ✓ **Ask questions to get more information or to get validation:** "I'm a bit confused, can you share more so I can understand your point?" Get validation: "Do you see my point?", "did I get your point correctly?"
- ✓ **Show the employer that you understand their position** if their position makes sense for you and doesn't involve a big compromise on the core/very important aspects that you want to resolve.
- ✓ **Prioritize your asks.** you might have multiple issues you want to solve. Of course the more issues you can solve the better, but it also depends on the flow of the discussion with the employer, so it's always good to be ready to focus on your top priorities
- ✓ **Restate your position.** if the employer is open, remind them of your intentions, interests, position and needs. Repeat key statements in relation to the issues that are core and very important for you.
- ✓ **Avoid a deadlock discussion** especially if the employer is not flexible. In this case, instead of asking closed questions and leaving no space for bargaining, keep room for exchange and for discussing the issue again if you can't reach a satisfactory settlement.
- ✓ **Be prepared to make an offer** – one of the key strategies you can use is proposing solutions. Don't only state the problem but propose a solution. You can choose to make an offer that goes further than you actually want in order to leave a bargaining space to reduce your demands and get to an acceptable offer. This tactic should be used carefully so, you don't ask for something that is totally not accepted from the employer's side.



- ✓ **Offer a practical solution.** By offering some reasonable and practical options you're more likely to get a solution (or at least a quick answer) instead of long discussions.
- ✓ **Finish the conversation on good terms.** Even if the conversation ends on an angry or abrupt note, try and finish on a positive note. You can still thank the employer for the chat and the chance to raise the issue. Or note that you didn't want to cause any problems but wanted to explain the difficult situation you're in.

Once you've communicated with the employer, they'll most probably understand the problem and what you're asking for. The next question is how they respond and react. They may react positively and agree to your suggestions or offer you a reasonable compromise.



### Case Studies – Dealing with Employers. Worker responses in Lebanon

Negotiating with employers is difficult for persons in weak bargaining positions. The following comments were taken from workers in Focus Group Discussions in Lebanon.

- "The employer will probably hear me one or two times, then fire me."
- "If we want to talk with the employer about a work issue, we ask for a meeting."
- "The best way is through discussion and understanding"
- "Anyway I will face harm when I complain because the employer is the strong party and will fire me. Now I approach organizations to know my employment rights. New concepts appeared which we did not know about."
- "If the relationship is good with the employer we will find a solution . If not, I will ask the help from a mediator."
- "I will meet the employer and we will try to resolve the dispute."
- "I ask for help from a person the employer trusts."
- "By negotiation we can solve and raise our problems. We should find a common ground."
- "Whenever I ask for rest or food I don't get any response. They treat me as if I am a donkey."

## 8 3 Dealing with a negative response

On the other hand, employers may react in a hostile way, with accusations or even tell you to leave the job if you're unhappy with the conditions. In this situation there's a couple of immediate steps you can take to minimise any fall-out from raising the issue:

- Tell your employer you don't wish to leave the job (if that's the case).
- Tell him/her that you better understand their position now (if that's the case).
- Explain that you've raised the issue as you're worried about a certain issue (your ability to support your family if you haven't been paid, being overtired if you're working excessive hours, health issues if there's no workplace health cover).

Seek support when you reach a deadlock – or if you're threatened with dismissal. .





Fishermen in the marshes, Iraq (Photo: Ahmed Kaka/NRC)



## 9 | Bargaining techniques

This next section of the guide covers more advanced bargaining techniques in the workplace. It can be useful to know the theory behind these techniques, including for any third party led negotiation or in pre-trial negotiation or initial litigation. There are various bargaining techniques that can be used during negotiations depending on the case details, the employer profile and the nature of the relationship between the worker and the employer. Below are examples of main techniques that can be used during negotiations:

### 9.1 Advanced techniques

#### Technique 1: Distributive bargaining or “market bargaining”

This approach and accompanying process generally involves a worker and employer who are both open to negotiations/offers and are in a competition or struggle to get their interests met, often, but not always, at the expense of the other party. This approach is frequently called “bargaining,” “positional bargaining,” “market bargaining,” “distributive negotiations,” “haggling” or “deal making.” It is used worldwide and every day at work in the market or with colleagues to reach an agreement or to resolve disputes. Agreements are reached when a party either persuades their counterpart to comply with their wishes, or an acceptable compromise is reached where gains and losses are shared by both parties. For example a worker may insist on immediate payment of wages owing, whilst the parties may finally agree that the wages will be paid in installments over three weeks, considering some financial challenges faced by the employer. This outcome is often referred to as a distributive solution. To develop an acceptable agreement, parties normally propose and relinquish sequential positions—preferred solutions that meet interests—until one is found that is mutually acceptable.

The core of distributive bargaining is that each party has a target point and a resistance point. The target point is your ideal target or goal. The resistance point is as far as you are willing to go to compromise after which you will ‘walk away’ from the negotiations. There’s much space in such negotiations for multiple offers and counter-offers. Workers are advised to come prepared with multiple offers but not to propose all of them simultaneously. Workers can start with the highest possible offer and then go through negotiations to reach an acceptable point/offer. A worker in a weak bargaining position may start by claiming full payment of wages, whilst the employer may claim that a lower rate of payment was agreed between them. After various offers and discussions, the worker may eventually agree to 70% of the wages because there was some uncertainty about the rate of payment and the worker wants to close the matter and get some payment. However, the worker is not prepared to accept below 70% which is their ‘walk away’ position. For any less than this amount they would walk away from negotiations and assess their other options.

## Technique 2: Pressure bargaining – take it or leave it strategy

Under this technique, the worker has a clear and bold position on what they want to achieve and is not willing to make large compromises. Normally this is a risky technique, as it leaves small space for exchange and sets limitations around new solutions or multiple counter offers. Workers are normally advised to avoid this kind of techniques unless the issue they are negotiating is very important and their asks are fundamental or if they don't have much to lose. For example a worker who has suffered a work injury may insist that the employer cover all medical expenses. If the employer doesn't cover the hospital costs, they may report the accident to the police or authorities may initiate an investigation into the work accident which would cause problems for the employer.

This technique can also be used by the employer when approached by the worker to resolve a work-related problem. Employers might be very bold and strict on what they are proposing and show no flexibility to discuss their offer. For example, an employer may insist on termination of an employment contract on account of a lack of business in the workplace. In this case, workers are advised to defuse this hard bargaining approach. They should try not to focus on the employer's attitude and lack of flexibility and instead discuss the content of the offer to get to a point where a counter-offer can be made. The employer may acknowledge this but negotiate for an extended period of compensation to find another job (three months' pay).

This 'take it or leave it' tactic from an employer's side can also be associated with threats to drop the negotiations. It's very important as a first step to recognize the threat and assess if the threat is serious or is being used a tactic to push the worker to make significant compromises or place the worker in a more vulnerable position. There's no easy way to recognize this, as this largely depends on how well the worker knows the attitude of the employer or if they or co-workers have had to deal with similar situations with the same employer in the past.. Has the employer made similar threats to terminate employment contracts for other workers in the past? What happened?

The worker needs to assess how serious the threats are and if it's worth pushing for a counter-offer. They also need to determine their response in negotiations. This can be hard, as such assessments and decisions need to be made on the spot and might involve taking some risks. In some situations ignoring the threat can be an effective strategy to defuse the situation, especially if the worker senses that the employer is not very serious and is trying to intimidate the worker. In other cases naming the threat or labeling the threat is a good strategy to defuse it.



### Case Study – Formalising a dispute to protect rights

A Palestinian worker was dismissed from work with no notice period and went to a local work rights actor for advice. The work rights NGO advised them to send a text message to the employer asking what time the employer wanted them to start work on Monday. Whilst this seemed a strange approach, it received a positive outcome. The employer was surprised that the worker had formalized the issue with a text message and felt they must have received some advice about their rights. The employer then asked them to report to work on Monday to discuss their working hours.

## Technique 3: Integrated negotiation, collaborative, interest-based: win-win

This technique focuses on parties finding ways that they can jointly address, meet and satisfy both their individual and joint interests. Normally parties who have good relationships, or would like to maintain good relationships, tend to be more collaborative throughout negotiation processes. Self-assessment of the nature of the relationship with the employer is key to informing a constructive process. When both parties care about their relationships and respect each other's rights and position, there's good space for joint brainstorming on all possible value-creating opportunities and joint evaluation of options. This can also allow an honest discussion on limitations, red lines and implications if issues are unresolved or the solution is unsatisfactory. This technique creates space to put multiple offers on the table especially if the employer shows good intentions to accommodate the worker's views and suggestion.





## Technique 4: Principled negotiations

In real life, most negotiations are neither purely collaborative/interest-based, nor exclusively competitive/optional-based. Negotiators often alternate between the two approaches and related procedures depending on who they are negotiating with (friend or rival), the issues in question (highly contentious or less divisive), the interests they want to satisfy (more or less important), the amount and type of power and influence they have (information, ability to provide benefits and capacity to exercise coercion and other desired outcomes (substantive, procedural and psychological/ relational). This also takes account of the Best Alternative to a Negotiated Agreement (BATNA) approach. This is the most advantageous alternative that a negotiating party can take if negotiations fail and an agreement cannot be made.



9 2

### Employer profiles

There's no common approach to resolve work disputes that can arise with an employer. Resolving the dispute depends on many factors including the profile of the employer. Understanding the profile of the employer allows you to know your bargaining space, the way you need to approach the employer, your strategy for resolving the dispute and what outcomes to expect. Here are some profiles of typical employers and tips for dealing with them;



Shopkeeper taking his coffee (Photo: Tina Abu Hanna/NRC)

## Aggressive employer

They think they cannot be challenged, they're above the law and cannot be held accountable, so they have tendency to escalate the dispute. This profile of employers is difficult to deal with, because they are often not responsive or do not accommodate/consider the other party's point of view. They can also give the impression that they don't care much about the consequences or what happens next. They focus on pushing for what they want. Aggressive employers can also give the impression that they have little sympathy for the other party.

### *Tips to deal with aggressive employers:*

- Remain calm, do not interrupt them.
- Keep the discussion fact-based and avoid discussing emotions.
- Try to always conclude the discussion on a positive note.
- Avoid back and forth and long discussions.
- Try not to escalate the dispute.

## Responsive employer/ accommodating

Responsive employers have tendency to show that they are understanding. They acknowledge the other party's position, listen to what is being addressed, are open to proposals and show goodwill. This doesn't necessarily mean that an accommodating employer won't have a stand or a position on the matter, however they are expected to show flexibility when things arise. There's a big advantage with responsive employers in terms of openly sharing concerns, talking about needs and proposing solutions. These employers are normally positive and more open to discussion.

### *Tips to deal with responsive/accommodating employers:*

- Show them appreciation for being open and responsive.
- Show them that you can also take their interest and views on board.
- Show them interest in maintaining relationships for the future.
- Try to focus your suggestions on resolving current issues but also avoiding such disputes in the future.
- Such employers can be open to having a mechanism in place to avoid future disputes or challenges.

## Non-responsive/stubborn employer

A stubborn employer is not expected to make big compromises. They are normally focused on the gain or their point of view with little flexibility to accommodate new ideas or solutions.. A stubborn employer doesn't usually like to discuss things and doesn't accept suggestions that are not aligned with his/her thinking. They tend to show a large degree of confidence in the matter they are discussing and the solutions they propose or decisions they make. They give the impression that their decisions are not subject to discussion or questioning.

### *Tips to deal with stubborn employer:*

- Avoid raising issues in front of big groups. Stubborn employers are less likely to collaborate if challenged in front of other people.
- Try to find someone who can positively influence the employer's decisions, but only if you think that third party involvement won't escalate the dispute.
- Persuade the employer to change their mind.
- Show them good intentions to find a solution.



## Dominant or powerful employer

Due to their financial status, social status or other power factors, some employers use their power to create an imbalance in the status with the worker. They like to challenge the other party, to remind them that they are powerful and that they are the ultimate decision makers. This can include threatening the worker or giving them the impression that they cannot make decisions on matters that concern them at work.

Disputes with an employer who's well connected are normally best avoided in order to avoid loss of jobs and creating a bad reputation among other employers which can affect future working opportunities in the sector or in the area.

### *Tips to deal with a powerful employer:*

- Such a profile requires a more thorough assessment from your side to assess risks.
- Choose the right time to raise the issues with them.
- If the risks are too high, you might need to consider seeking support from a third party who can represent your needs and views in the negotiations, or you can decide to make bigger compromises if this works for you.

## An employer who cares about his/her reputation

These employers normally avoid risks, prefer not to escalate disputes and like to keep any disagreements limited. They also prefer to have less people involved in any dispute. With such employers there is more space for bargaining and you can expect more compliance and resolution. This profile of employers normally enjoys recognition from colleagues.

### *Tips to deal with an employer who cares about his/her reputation:*

- Show them appreciation throughout the negotiations.
- Try to propose practical solutions, as these employers are normally open to resolving disputes and avoiding long negotiations or the involvement of other parties.
- Refer to their qualities in the workplace with other workers and mention any positive feedback you hear about them from other people.

## Provocative employer

Provocative employers have a lot in common with stubborn and powerful employers. They can give the impression that they don't care much about your views or needs. They want to dominate the discussion and they rarely accept being challenged. If challenged they can tend to escalate the dispute, raise their voice, accuse you of things to show that you are in a less powerful position or use expressions that they know might hurt the other party.

### *Tips to deal with provocative employers:*

- Avoid raising issues in front of big groups.
- Try not to react when they use any provocative expressions.
- Stick to practical asks and show respect.
- Try to find someone who can positively influence the employer's decisions, but only if you think that third party involvement won't escalate the dispute.
- Show them good intentions to find a solution.



## Employer who avoids issues (maintain status quo)

Some employers prefer to avoid discussions and tension. While this is an indication that the dispute might not escalate, it doesn't guarantee finding a solution for an issue the worker wants to raise or resolve. It's difficult to deal with these employers, as they might give the impression that the issue raised by the worker is not very important, or that they are too busy to discuss it.

### *Tips to deal with avoiding employers:*

- Try to approach the employer when they're free.
- Be practical in raising your concerns and in proposing solutions. Employers who avoid issues can at any point decide to stop the discussion and to give excuses. The more practical and straight to the point you are, the more time you can save and the more issues you can either raise or resolve.
- If they postpone the discussion, push to set a deadline or date for your other meeting and make sure to follow-up.

## Unpredictable employers

Some employers do not let you know how they might deal with problematic situations and leave you unsure about the outcomes or their reactions. They can be open for discussions but they can also be stubborn or aggressive which doesn't help the worker to predict what the reaction of the employer could be when addressing work-related issues.

### *Tips to deal with unpredictable employers:*

- Try to collect information about how they normally react when approached by a worker.
- Prepare multiple scenarios and be prepared to deal with any of them.

## Compromising employer

Some employers are very open to compromise. Normally compromising employers are open for discussions and open to consider your point of view. While you cannot assume you'll reach the deal you're aiming for, with a compromising employer you can expect a high level of flexibility in reaching a common agreement.

### *Tips to deal with compromising employer:*

- Be practical in raising your concerns and in proposing solutions.
- Show them appreciation for being open and responsive.
- Show them that you can also take their interest and views on board.
- Show them interest in maintaining relationships for the future.

## 9 3 Role of the *Shawish* or middle-man

Informal Tented Settlement (ITS) communities, particularly in Jordan and Lebanon, are administered by traditional governance structures, typically by the *shawish*, a community leader who acts as a middleman and informal labour broker between farmers and workers in exchange for a share of the workers' daily salary. Farmers wishing to contract labourers contact the *shawish* and request the numbers of workers and types of skills they require on a daily basis. The *shawish* is responsible for deciding who to send from the ITS community.



They are paid directly by the farmer and are responsible for paying the workers. A similar situation can exist in the construction sector where a middle-man is often responsible for sub-contracting daily labourers or workers and acts as the liaison between the workers and the employer. On account of this intermediate role as a middle-man, labour broker and community leader, different considerations are necessary when discussing or negotiating work rights issues with a *shawish*. In order to define the level of involvement, the following elements should be considered on a case per case basis:

✓ **The profile of the *shawish*.**<sup>16</sup>

✓ **The role they play within their communities;** does the *shawish* play a role in advancing the rights of the workers and enabling increased access to services for ITS residents, or do they play a negative role that could involve abuse of workers' rights, such as keeping a percentage of workers' salaries?

✓ **Is the *shawish* receiving any benefits?**

Workers should understand these elements as well as the power dynamics in their situation, and think carefully about how to approach or involve the *shawish* in any disputes with the farmer-employer

Guiding elements that can help assessing space for negotiation and risks include the following:

- **The general attitude of the *shawish*:** Is the *shawish* flexible or approachable? Does s/he care about workers rights? Are they open to discuss problems? Are they creative and supportive in finding solutions?
- **The scale of the problem:** Does this involve an individual work-related issue? Or a collective one? Is the *shawish* interested to become involved in this issue?
- **The space or role of the *shawish*:** Does the *shawish* have any space to raise these issues with the employer?
- **Risks:**<sup>17</sup> Are there any associated risks for workers if deciding to approach the employer directly to negotiate their work rights without involving the *shawish*? What are these risks, and can they be mitigated? Some of these risks can include being excluded from work, being evicted from the ITS, reduced amount of pay, being given poor or hard work.

Similar considerations apply to middleman in the construction sector. Middle-men or labour brokers in the construction industry can play a positive or negative role in protecting workers rights. They can have a disproportionate influence with the employer and often have the power to hire and fire workers.



### Case Study - Generous landowners

Some landowners in Informal Tent Settlements (ITS) are sympathetic to the situation of agricultural workers living on the land. Participants in a Focus Group Discussion in Lebanon gave the example of a landowner who refused to raise the rent on the land despite the increasing level of inflation in Lebanon. The landlord said that he wanted to deal with the workers in a humanitarian way. The workers insisted on raising the rent by a small amount.

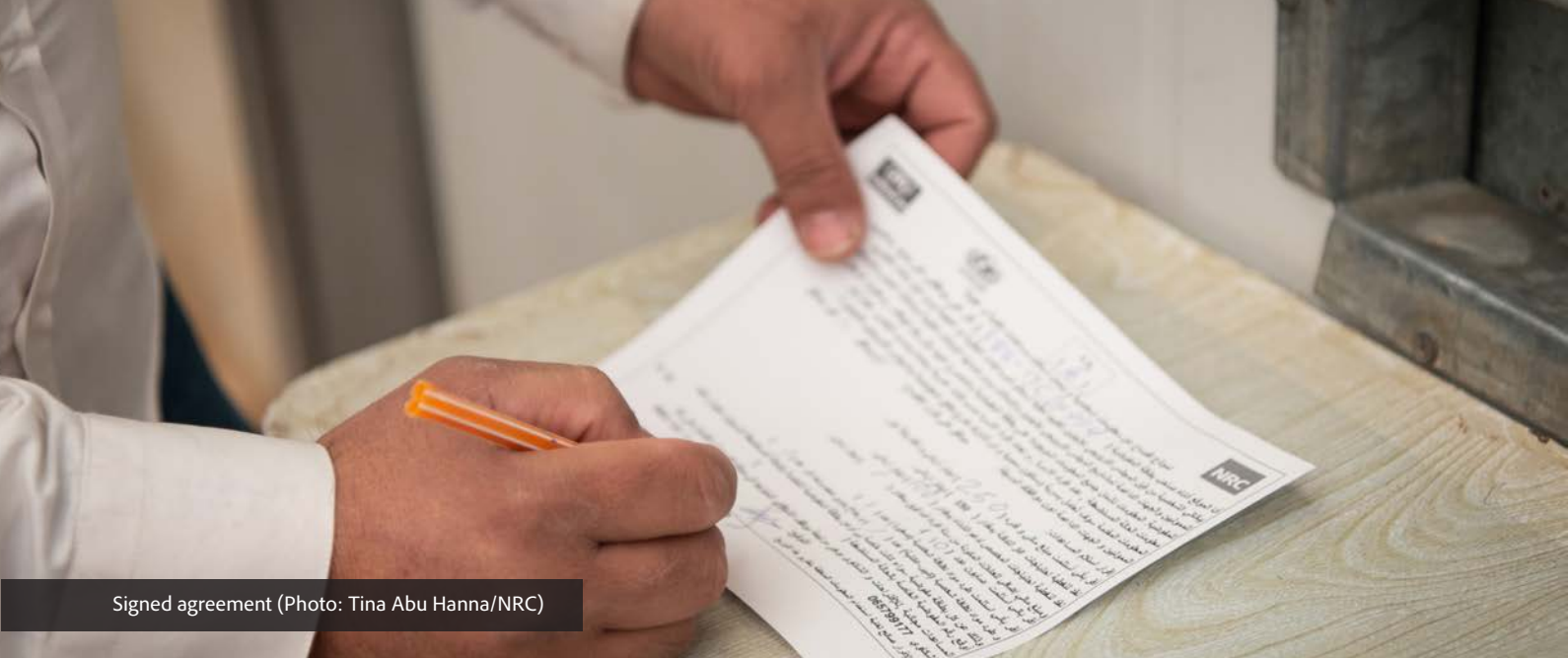


### Case Study – *Shawish* taking excessive percentage of salary

Syrian agricultural workers in Lebanon report that the *shawish* takes a large percentage of their salary. They advise that *shawish* are paid between LBP100,000-60,000 per worker but pay the worker only LBP50,000 per day. Sometimes workers are paid only irregularly.

16 For information on employer profiles, please refer to section 9.2.

17 For further information, please see Section 5 on Risks.



Signed agreement (Photo: Tina Abu Hanna/NRC)



## 10 | Enforcement

If you've managed to reach an agreement with your employer, *mabrouk!* The next step is to make sure the employer respects the agreement in practice. Employers may sometimes promise payment of unpaid or delayed wages, or improved working conditions, but do nothing about it.

Practical steps in **enforcing the agreement** are as follows;

- Make sure the **deal is clear for you and covers all the details.**
- Is there an **agreed time frame for action?** Has the employer committed to paying your wages by a particular date? Have they agreed to allow you to take time off for extra hours worked?
- Are you **happy with the deal?** Is it the best outcome or comprise you could get in the circumstances?
- Make sure the deal includes **practical steps on the way forward.**
- If the agreement is simple there may be no need to write it down. However, if the detail is complex or involves timelines, **ask to write it down** for your memory and the employer. You could also ask the employer to sign it.
- Show your **appreciation and thanks** to the employer.



### Case Study – Syrian construction contractor in Jordan

A Syrian worker was contracted to work on a private home in Jordan for 20 days. After completion of the job, the homeowner delayed payment of the money owing (JOD1,160) and then travelled to Saudi Arabia. Upon his return the payment was still delayed. The worker did not want to go to court for fear of the employer filing a malicious claim against him. Risks were discussed with the worker and he agreed to sign a Power of Attorney with work rights NGO Tamkeen, to represent him. Tamkeen called the homeowner to raise the complaint and explain the rights and obligations of both parties. The employer agreed to hold a meeting to discuss the issue. After the meeting the employer agreed to pay the amount owing. Once payment was received, a written statement was signed confirming payment.







Training session in Jordan (Photo: Tina Abu Hanna/NRC)



## 11 | Role of legal aid providers

Supporting workers to protect their work rights in practice is challenging, especially when workers are fearful of taking action. The following section contains suggestion on how legal aid providers can help workers to protect their rights in different ways. The starting point is to establish what type of activities or initiatives can be useful in practice.

11

1

### Relevant activities

Relevant services and activities can include the following:

- ✓ **Mapping relevant needs.** Identify the areas of most relevance to workers within your context. This could include , awareness sessions on work rights, support with work permit applications or guidance on effective dispute resolution skills.. Conduct needs assessments, engage with community organisations or organize Focus Group Discussions (FGD) within workers to discuss needs and useful services. .
- ✓ **Identifying key target groups.** Common occupational groups include agricultural workers, daily labourers, construction workers, domestic workers, persons in self-employment and persons working in shops or hospitality. Chose the groups you intend to work with, set out the services you intend to provide and clarify the realistic outcomes you expect to achieve for them. Pay attention to groups who may be disadvantaged including youth, persons with disabilities, persons of minority background or women with child care responsibilities.
- ✓ **Designing practical and interactive information sessions.** Information sessions can sometimes be too generic and fail to engage the interest of workers. Focus the sessions on key areas of interest for your demographic. Make the sessions interactive, using practical examples and visual guides. Discuss with colleagues, such as Education staff, how to make information sessions stimulating. Where possible, involve participants in discussions about challenges they face in the workplace and how they resolve them. Schedule information sessions at times when workers are most likely to be able to attend. Many workers will self-evidently be unable to attend information sessions held during working hours.
- ✓ **Using digital platforms for information dissemination.** These can include digital portals, such as Facebook, WhatsApp, KOBLI<sup>18</sup>, webpages, apps, other social media, or short videos. Such services can be much more accessible for workers that don't have time, money for transport or otherwise can't attend information sessions.

18 KOBLI is the digital legal services portal for NRC's Information, Counseling and Legal Assistance (ICLA) programme.



- ✓ **Providing counseling services on individual options.** A one-on-one confidential consultation with a lawyer or staff member with expertise in work rights can be useful in clarifying legal issues and discussing options.
- ✓ **Training workers in communication and negotiation techniques.** This includes developing materials for workplace coaching sessions, delivering coaching sessions and following up. Coaching sessions should also draw on experiences workers have in resolving their own issues within the workplace as part of a mutual learning exchange. Volunteers can also be useful in the provision of training services.
- ✓ **Working with partners or local organisations specializing on work rights issues.** ICLA Jordan works with one NGO specializing in work rights, namely Tamkeen, whilst ICLA Palestine work with two work rights NGOs, namely KLO and Maan. Different NGOs provide services to migrant domestic workers in Lebanon. Map other actors who may be able to offer relevant assistance on work rights issues, including protection actors who can assist in the event of SGBV, child labour or other forms of harm or violence.
- ✓ **Drafting documents, accompany workers or provide other forms of practical legal support.** This includes drafting written contracts, representing workers in applications for residency or work permits, sending written notices to employers on behalf of workers or supporting workers to retrieve confiscated documents, including passports. For example, 'judicial warnings' are letters drafted by lawyers which are sent to employers advising them of a work rights violation and asking them to remedy the issue within a certain period of time before court action is commenced.
- ✓ **Coaching workers on individual negotiations.** Rather than formally representing workers with negotiations, qualified staff may provide behind the scenes tips, advice and guidance on negotiations strategies. Such an approach leaves workers in the driving seat to determine their own outcomes, whilst providing background support and practical suggestions.
- ✓ **Conducting assisted negotiations.** When workers feel unable to effectively negotiate a satisfactory agreement on their own, qualified staff can accompany and represent workers during negotiations of work rights disputes.
- ✓ **Providing legal representation with court cases.** Legal aid providers, external lawyers or ICLA staff can take cases to court. Most jurisdictions have specialist labour courts or dispute resolution mechanisms and work rights cases are often expedited.<sup>19</sup>
- ✓ **Working with other NRC Core Competencies (CCs), including Livelihoods and Youth programmes.** This includes providing ICLA services to participants of other CCs such as by helping draft template contracts, conducting information sessions about workplace protection or vocational training requirements for working-age youth, providing legal support on employment rights issues during project design or providing other forms of technical support.
- ✓ **Liaising with authorities or employers.** This can include working with the Ministry of Labour, labour directorates, municipalities or other relevant government agencies on issues such as issuance of work permits or complaints about employer practices. Depending on the context it may be worth liaising with individual employers or employer associations. It may be useful to provide information to employers on the employer rights and obligations as well as worker rights and obligations.
- ✓ **Coordinating with other relevant actors.** These can include UN agencies such as ILO, UNHCR, UNRWA, the World Bank, other I/NGOs and policy institutes or think tanks conducting research or lobbying for legislative reform on work-related issues. Many such actors have good relationships with governments.
- ✓ **Engaging on policy change.** Explore realistic options for positively influencing policy, law and practice. Consult with Advocacy colleagues and develop an Action Plan with key targets. Conduct field and legal research to provide an evidence base for the intended change. Discuss with other actors and form coalitions where possible.

<sup>19</sup> For example, Jordan has a specialized Wages Authority to determine wage disputes quickly whilst Lebanon has a dedicated Labour Arbitration Council. Work rights disputes in courts in Iraq are expedited. See for example, NRC Federal Iraq Employment Rights Guide, p 23-24.



Repairing Water Heaters (Photo: Tina Abu Hanna/NRC)

## 11 2 Designing negotiations training for workers

In order to make sure that training on workplace negotiations is effective, programmes, must carefully plan and design the training and tailor it to the work rights context.

Guiding actions that programmes can use to design trainings include the following:

### 1. Collect information to build training content in line with realities faced by workers in your context:

Conduct a consultation exercise prior to developing your training content to understand the types of work-related issues workers face depending on the context. This should also include actions taken by workers to protect their work rights as well as information on particular vulnerabilities, such as high levels of informality. Programmes should also collect information on employer's profiles. This consultation can happen either through individual interviews with workers, Focus Group Discussions with workers or consultations with volunteers and community leaders.

Questions to be asked in consultations with workers include the following:

#### Formal/informal work:

- Is it easy, affordable or possible to apply for a work permit as a refugee or migrant?
- Have you or other refugees or migrants in your community faced problems with authorities in obtaining a work permit or employers in obtaining employer sponsorship?
- Are you working with our without a valid work permit?
- If you are working without a work permit, have you or other refugees or migrants faced problems with authorities on account of your status? Can you provide examples?

#### Sectors:

- To your knowledge, in which sectors can refugees or migrants from your community work informally? Are refugees/migrants aware of any restrictions on work sectors?



### **Problems at the workplace and approaches to address them:**

- Have you or other workers in your community faced any problems in the workplace? (examples: non-payment or partial payment of wages, long working hours, limited time off, issues around safety of the workplace, coverage of work injuries, unfair dismissals, threat/assault/discrimination/sexual abuse).

### **Taking action to protect rights:**

- What actions, if any, do you or other workers in your community take to address work rights issues? (approaching employer, seeking legal aid support, contacting NGOs, lawyers, going to court, nothing)
- What available options do workers have to address work related disputes or resolve work related problems?

### **Bargaining techniques:**

- Can you tell us about the bargaining techniques you and other workers in your community use to address work related issues and disputes?
- What types of outcomes do you obtain?
- In which situations can these be used?

### **General attitudes from employers:**

- From your experience, what are the various employer profiles/personalities that you encounter?

### **General risks within the context:**

- What are the risks associated with raising work related issues within the context?
- What are in your opinion the best ways to avoid them?

## **2. Update and develop the training content based on information from workers**

Tailor the training to the context: Liaising and consulting with workers will help to tailor the content of the training (and this guide) to the context.

Add scenarios and use case studies: The examples and stories shared by workers can be used as real scenarios during the training, including examples of techniques workers use to resolve their disputes. Examples of good outcomes help and empowers other workers to use similar techniques to resolve their disputes.

## **3. Use your training as an avenue to collect feedback and enhance your content (feedback form)**

It's important to keep updating the training package based on feedback received by participants and any new information or scenarios shared by workers.

## **4. Follow-up**

It's also crucial for programmes to follow-up with participants on outcomes. Ask whether they were able to use the communication and negotiations skills in practice. Were they useful? What results were obtained?



### 11 3 Coaching workers to resolve individual cases

This approach is directed toward **individuals with work rights disputes who require individual advice**. It may involve provision of legal information, or advice on dispute resolution strategies or skills needed to make progress on a dispute or to break a deadlock. If coaching involves provision of legal information, the coach must have adequate legal training and knowledge to do so.

### 11 4 Building trust during counseling

**The way in which a lawyer or ICLA staff member deals with a worker during a counseling session may determine whether or not a worker wants to take action.** Not only must the lawyer be able to explain the worker's legal rights and options, but they must be able to build the trust of the worker, listen carefully to their fears and concerns and make them feel confident. Workers are more likely to take action if they understand that the consultation is confidential and believe that the lawyer or staff member has expertise in work rights issues.

Some tips are as follows:

- Start with some icebreaking if the worker is nervous or feels intimidated,
- Be honest, be humble,
- Avoid making promises,
- Be accurate and clear in the advice you give,
- Explain your experience on work rights issues,
- Provide the worker all possibilities; positive or negative,
- Present similar stories,
- Inform the worker of the procedures right away,
- Emphasize the principle of confidentiality,
- Stress that the worker is the decision-maker and the lawyer's role is to discuss options with the worker.



Syrian youth learning carpentry, Jordan (Photo: Tina Abu Hanna/NRC)

## 11 5 Assisted Negotiations: Accompanying the worker in the negotiations

Workers will sometimes ask for support from lawyers or legal aid providers in raising a work-related dispute with an employer. Often they will want help from a lawyer or person experienced in negotiations.

They may be reluctant to raise the issue directly with the employer for various reasons. They may (1) fear the employer's reaction, (2) be unable to get the talk started on their own and want someone external to raise the issue, (3) have serious communication issues that prevent effective negotiations, (4) feel unable to complete the process on their own, (5) lack awareness about their rights, (6) feel that a lawyer can present strong legal arguments or (7) face deadlocks caused as a result of previous ineffective exchanges or failed negotiations. It's important for legal aid providers to understand the reasons why the worker is reluctant to raise the issue directly with the employer and to jointly assess the risks associated with either approaching or not approaching the employer. Based on this brainstorming and the assessment, the legal aid provider might choose to support the worker in the process, representing them, their interests, needs and direction or coaching them to take the lead in the negotiations.

### 11.5.1 Joint assessments with the worker

When taking instructions from workers for the purpose of assisted negotiations, it's important to obtain all relevant information in order to reach a proper assessment of the situation. Joint assessments with the worker should cover the following issues:

#### 1. Understanding the facts of the case

- **Knowing the main issue raised by the worker:** what's the problem? How has it developed? What are the reasons? How major is the issue? Does it involve the possibility of loss of work and income? Non-payment of wages?

#### 2. Understanding the relationship and profile of the employer

- **Nature of relationship between parties and power dynamics:** Can the worker describe the relationship with the employer? Do they feel that they have less power or zero power to raise their issues with the employer? Understand their expectations.
- **Employer's profile:** what reaction can the worker expect from the employer? How is the employer? Open, collaborative, aggressive? What does the worker think is acceptable for the employer? What are the red lines? [Please refer to section 9.2 on employer profiles].





### 3. Understand existing efforts including failed ones to resolve the issue

- **Understanding previous attempts to raise the issue directly with the employer:** Did the worker try to approach the employer before? If not, why? If yes, what were the results? Does the worker think there's still a space for bargaining with the employer? What issues were raised with him or her?

### 4. Level of awareness about rights and obligations

- **Understanding the level of worker's awareness about their rights:** does the worker have knowledge about their work rights and employer's obligations? Is the employer breaching the worker's rights?

### 5. Assess risks

- **Understanding the risks:** Does the worker expect any risks associated with approaching the employer? What are these risks? Are they major? Any associated protection risks? Any risks if NRC gets involved?
- **Understanding the implications of this issue for the worker:** What are the implications if the issue remains unresolved, or the employer decides not to collaborate?
- **Urgency of the matter:** How urgent is the issue? Are there any accumulated debts or urgent payments to be made, such as rent payments?

### 6. Workers goal

- **What does the worker want to achieve:** What does the worker want? Full pay? Partial pay? Compensation? Coverage of medical expenses?
- **Compromises the worker is willing to make:** What is the space for bargaining? To which extent does the worker want to make compromises?
- **Worst and best outcome for the worker:** What are his/her best and worst options? What's the best result for the worker? What's an acceptable outcome? What's an unacceptable outcome?

### 7. Representation

- **How does the worker want to be represented in the process:** If a lawyer or legal aid provider is going to accompany the worker throughout the process, how do they wish to be represented? What are the elements they will allow the lawyer to disclose and the information they don't want to disclose during negotiations?

After jointly assessing the above-mentioned aspects, legal aid providers need to make the decision with the worker on their involvement in the negotiations process, such as where the provider can lead the process and represent the worker.



Agricultural Worker, Lebanon (Photo: Sherbel Dissi/NRC)

### 11.5.2 Conducting the negotiation on behalf of the worker

Once the course of action is agreed with the worker, the legal aid provider will need to start the negotiations with the employer. They'll also need to keep the worker closely informed about their contact with the employer. After the legal aid provider speaks to the employer, the employer may try and call the worker directly to try and persuade them to drop the case or to make threats against them. The lawyer have to agree with the worker on what to do. It's often better for the worker to politely tell the employer that you've authorized a lawyer to help you resolve the issue the employer needs to discuss the matter directly with the lawyer. Typical steps in the negotiation process are as follows:

- ✓ **Agree on a course of action with the worker.** This should cover how and when you will contact the employer and how you will raise the issues. You should also agree on a first offer that would be acceptable to the worker. The employer may ask what the worker wants and may agree immediately if the offer is reasonable. You should also agree on next steps in case the employer becomes hostile, makes threats or says they will report the worker to the authorities.
- ✓ **Prepare for the call.** Once you've agreed on a course of action, prepare exactly what you'll say and how you'll raise it. Keep a summary of the facts of the case with details, dates and amounts of wages paid (or owing). If you need to make any legal arguments, such as in relation to lawful periods of notice, grounds of dismissal, entitlements in the labour law, appeals or other issues, make note of the relevant sections in the law before speaking with the employer. Knowledge of the law can project confidence and experience. Get employer contact details from the worker including telephone number, WhatsApp, email and address of the workplace. Ask the worker when is the best time to call the employer.
- ✓ **Make the call.** Calling the employer is often preferable to sending a message but it depends on the situation. Sending a message puts the employer on notice and may give them time to think about the issue. Calling is more direct and gives you the chance to discuss the issue and open up dialogue. If the employer doesn't answer, you can leave a voice message or send them a message. If the employer doesn't respond after a few messages, you might advise via message that you'll be forced to initiate a court action (if this is what you have agreed with the worker). Keep a record of any calls or messages.
- ✓ **Setting the tone.** The tone you set in the first call is very important. You should be clear and firm but reasonable. The employer should understand that the worker is taking the issue seriously and has engaged an expert who knows what they are doing. You should give your name, advise that you are representing the worker and note your professional background (lawyer, negotiator, representative of NRC). Ask if the employer has time to talk. Explain that you are looking to find an amicable solution. Within the first few minutes you'll get a sense of the attitude of the employer. They may be hostile, dismissive, angry or disengaged...or surprised, reasonable and open to compromise. See the section 9.2 on **employer profiles** for tips on dealing with different employers.



✓ **Discuss the issue with a view to a quick solution.** Once you've briefly set out the main problem, invite the employer to a face to face meeting. It's useful to ask the employer if they can propose a solution. This shows that you are interested in resolving the issue quickly and listening to the employer's point of view. They may disclose facts that you are not aware of. They may ask you what the worker wants. This is a good opportunity to present your suggested solution. If it sounds reasonable, it may be accepted straight away. Alternatively, the employer may ask for time to think about it. If you can present the facts and the basis of the claim clearly, you can present a strong case which may be difficult for the employer to deny. The employer may also deny the claim, challenge you, make threats (on the telephone) or just hang up.

✓ **Preparing for a meeting.** Face to face meetings can take place either with or without the worker. Where possible it is much better to have the worker present. It will be much more empowering for the worker to be involved in finding a solution. It will also help hold the employer to account and the worker will be able to correct any misrepresentations. It will also allow you to consult directly with the worker on any offers or counter-offers. Explain to the worker that they must be able to control themselves, not interrupt the employer and not get angry or emotional. This can undermine the negotiation.

✓ **During the meeting.** Start by breaking the ice between with the employer, and talk about common topics before starting to identify the task. Emphasize that this step is in the interest of the parties (the worker and the employer), and focus on the best interest of the employer, and the fact that providing workers with their rights will help him or her avoid any legal accountability. Do not interrupt the employer while speaking, and give him or her the opportunity to complete his or her sentences and communicate his ideas without confusion. Discuss the employment situation and labour rights, including the worker's claims. Bring viewpoints closer and try to reach a compromise between the two parties.

✓ **End the meeting or call on a positive note.** Once you've discussed the issue as far as possible, end the discussion in a respectful and polite way, even if the employer is hostile. This will keep the door open for future discussions. If you've reached agreement, follow up on next steps, including when payment of any unpaid wages will be made. If your employer wants more time, ask how much time they need and when you should call again. If the employer is hostile, tell them that you'll consult the worker on next steps. Depending on the situation, you might like to advise them that next steps can include legal options. You can also mention that there are time limits in the law for court claims on work rights cases so the worker will need to make a decision quickly. If the worker is working informally and without residency status or a work permit, the employer may know that the worker is unlikely to take the case to court. However, even an informal worker has a right to claim against an employer in a civil action. See section 4 on **employer relationships**.

✓ **Follow up.** It may take a further call, a number of calls or even some face to face meetings to discuss the issue and either come to an agreement...or not. The employer may engage their own lawyer who you'll have to negotiate with. You can refer to the bargaining techniques in section 9 for tips on negotiating skills in different contexts. Make sure that you keep the beneficiary fully updated on calls with the employer, progress on the case and next steps.

✓ **Agreement.** If you reach an agreement, make sure you also agree on how and when payments will be made and when the agreement will be implemented. See section 10 on enforcement in the guide. If no agreement is reached, check with the worker as to what they would like to do. They may like to drop the case or continue to court.

Further information on collaborative dispute resolution is contained in the NRC Guide 'Housing, Land and Property Handbook on Design and Collaborative Dispute Resolution'. These techniques can also be adapted to work rights situations.





Sewing class, Jordan (Photo: Beate Simarud/NRC)



## 12 | Working with Authorities

Working with authorities can be a strategic form of pressure to compel employers to meet their legal work rights obligations. Authorities are often reluctant to get into individual disputes, however they may be more likely to get involved in relation to patterns of violations by employers.

It can also be useful to build relationships with authorities, particularly if they understand that the interest of the legal aid actor is to uphold the rights in the law and protect and promote decent work rights for workers. Authorities may be more sensitive on issues of foreign workers, including refugees, particularly those who are working informally or without work permits.

Typical government agencies with responsibility for work rights include the Ministry of Labour or equivalent ministries or departments. Other relevant government authorities can include:

- ministries for social affairs,
- social security directorates or agencies responsible for worker contributions to national social security schemes (work injuries, termination payments, unemployment benefits, pensions)
- ministries for youth affairs or vocational training
- labour directorates, who often supervise the work of workplace inspectors
- local municipalities, if they have responsibility for local regulations or workplace licenses or permits
- administrative bodies for resolving wage disputes, such as the Wages Authority in Jordan

Further details of government agencies responsible for workplace issues are listed in the Employment Rights Guides for the Middle East per country available at the following link; [The Right to Decent Work: Employment Rights Guides in the Middle East | NRC](#).

Useful types of interventions with authorities can include the following:



## Advocacy

Legal aid actors can conduct targeted advocacy with authorities on specific issues affecting work rights, entitlements or workplace violations. Advocacy is most effective when it is well-informed, supported by a strong evidence base or substantiated violations and targeted to a particular audience. Specific recommendations are more likely to be taken seriously than more general recommendations. Examples of reports making recommendations on work rights include *Legalising Labour: Work Rights and Conditions for Refugees in Jordan* and *Closing the Gap: From Work Rights to Decent Work* ILO produces high quality reports on decent work rights, practices and proposed reforms in most jurisdictions as part of its global mandate; see here



### Case Study - Protection for agricultural workers

For many years Jordanian work rights NGO, Tamkeen, has been advocating for a specific law covering agricultural workers who are excluded from coverage under the Jordanian Labour law. Agricultural workers are often vulnerable and subject to exploitation by farm employers. Finally, in 2021, Jordan passed the Agriculture Workers By-Law No. 19 of 2021 providing legislative protection for agricultural workers in Jordan. This included protections on working hours, wages, health and safety requirement and obligations to provide acceptable on-site accommodation for workers.

## Trainings

It may sometimes be possible to provide training to staff of government authorities on specific issues of employment law. Training should only be provided by persons with the requisite knowledge and experience in employment law and practice.

## Discussions or negotiations with authorities

In case of a significant violation or a pattern or violations from a particular employer or group of employers. In some countries and contexts, it may be worth drawing the attention of local authorities to patterns of significant violations by employer/s. This could be in relation to unsafe or dangerous workplaces, large-scale dismissals of workers, or other issues which could affect public health, community relations or the welfare of large number of workers. They may conduct workplace inspections, put pressure on employers or play a mediating role in the dispute.



### Case Study - Role of authorities in promoting non-judicial dispute resolution

Within Jordan, the government has established a Wages Authority which is an administrative body established to resolve wage disputes between worker and employers without the need to go to court.<sup>20</sup>



### Case Study - Local municipalities acting beyond their jurisdiction

Within Lebanon, local municipalities sometimes act beyond their legal jurisdiction. In some municipalities in Lebanon, authorities have tried to impose curfews on Syrian workers, set maximum wages payable for Syrian workers and even tried to regulate rates of pay between male and female Syrian workers.<sup>21</sup>

20 For further information on the Wages Authority in Jordan see [NRC Legalising Labour: Work Rights and Conditions for Syrian Refugees in Jordan](#), 2017, p 23-25.

21 Middle East Monitor, [Lebanon municipality imposes wage limit, curfew on Syrian refugees](#), 14 November 2021.



Serving sweets, Jordan (Photo: Tina Abu Hanna/NRC)



## 13 | Litigation

**Litigation or the threat of litigation can often push employers towards finding a solution.** However, this depends upon the judicial system, the circumstances and the risks. Litigation is costly, complex, protracted and involves confrontation. Workers often find litigation very stressful. On the other hand, employers will also face costs and complications if a case is filed against them. They may want to resolve the issue quickly and cheaply. They may also need to find a lawyer.

Workers who do not have legal residency or work permits are understandably reluctant to file court action against an employer for fear of coming to the attention of authorities. Workers in ongoing employment may not want to go to court and risk losing their jobs. Persons without access to free or low cost lawyers may not be able to afford the legal costs. The costs of the lawyer may be more than the compensation to be awarded in the case.

Further some countries have non-functioning or biased court systems. It may be near impossible to enforce a judgement in practice. Court cases can also be extremely slow. Workers may also be worried about having to pay the legal costs of the employer if they lose their case.

However, persons with work permits or those who don't need permits such as nationals, or workers who have already lost their jobs and are claiming unpaid wages, may want to take a case to court. ICLA programmes which use external lawyers or work with local legal aid providers specializing in work rights, may be able to help a worker file a claim. Many jurisdictions in the region have **specialist labour courts or tribunals** which expedite work rights cases. Often there is no court fee in such cases.

However, typically cases must be lodged quickly and within certain statutory limits. For example, in Lebanon claims for abusive termination of employment must be filed with the Labour Arbitral Council within 30 days of the dismissal.<sup>22</sup> Late claims cannot be accepted. If a worker is trying to negotiate the dispute with their employer and misses the 30 day deadline, it is too late.

Once a case is filed, the claim must be sent to the employer who may then need to contract a lawyer to help them. The act of filing a claim can show an employer that a worker is serious. It may result in an offer to negotiate in return for a withdrawal of the claim. On the other hand, the employer may become hostile.

NRC's ICLA Litigation Guidelines provide useful guidance on litigation tips and practices.

22 Article 50(B) of the Lebanon Labour Code.



## Case Study – Palestinian workers in Lebanon

In 2020 NRC Lebanon was referred a case of 24 Palestinian workers who had worked for the same company for up to 20 years. They were suspended from their work in February 2020 without any notice or compensation. The employer claimed this was because of the economic situation in Lebanon. The ICLA funded lawyer advised the beneficiaries on their legal options, including taking the case to court. The employer and workers agreed that they were not employees of the company, but long-term daily workers on call. In August 2020 the lawyer filed a case in the Labour Arbitral Council for compensation. In April 2021 the employer's lawyers offered to pay 60% of the worker's entitlements. The offer was refused. In October 2021, following a number of postponed court sessions, the employer agreed to pay the workers their full entitlements, namely an end of service payment of one month wages for every year worked.



## 14 | Selected bibliography

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## Annexes

### ANNEX 1 BASIC LABOUR RIGHTS

Key ILO labour rights include the following:<sup>23</sup>

- Regular payment of **wages**, protection of wages and **minimum wages**,
- Framework for **regulated hours of work**, daily and weekly rest periods and **annual holidays**,
- Protection from **occupational sickness, disease and injury**,
- Provision of **social security** which protects against life risks and social needs, including **old age, sickness, unemployment, death benefits, and family issues**,
- **Vocational guidance and training**,
- **Protection for working women**, including maternity cover and childcare and family support.
- **Prohibition of child labour, minimum age of employment**, protection for working age-children in the workplace and prohibition of hazardous or dangerous work for children of working age.
- **Prohibition on termination of employment without a valid reason**, including unfair dismissal.
- **Right to appeal work-related issues**, including payment of wages.

For details of work rights and labour laws for countries in the Middle East and North Africa, see NRC's webpage on [The Right to Decent Work: Employment Rights Guides in the Middle East | NRC](#).

### ANNEX 2 RISKS AND SELF-ASSESSMENT OF SITUATION

#### Self-Assessment Checklist

When dealing with a work-rights situation, you can use the following self-assessment checklist to consider your options, including risks and advantages of taking action.

- ✓ **How important is this work right issue for me?** If the issue is significant, such as loss of employment or non-payment of wages, it might be worth doing something about. If it's an isolated or minor incident, it might be best left alone, unless there's a pattern of such incidents.
- ✓ **What's the general attitude of my employer?** Is he or she reasonable, aggressive, always busy, open to compromises, hostile?
- ✓ **What's the position of my employer on this issue?** What will be his/her response if I raise the issue with him/her? What are the negotiable aspects of the issue? From my interaction with the employer, what are the issues that I can raise easily with him/her? What are the issues that require proper preparation to raise? What are the issues that my employer is not open to discuss?

23 Summarised from ILO International Labour Standards, <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/lang--en/index.htm>.



✔ **What are the possible risks for me if I raise the issue with my employer?** Risks can include poor relationship with the employer, harassment or intimidation at work, transfer to other duties in the workplace, problems with co-workers, dismissal or loss of job, difficulties in finding a new job, being reported to authorities for working without a permit, including possible arrest and detention. The consequences will depend on the employer but also on the way you raise the issue with the employer. Do I know what to do if a protection risk arises, and where to seek support if protection issues arise or in case of escalation of dispute?

✔ **Do I know all the relevant facts about the issue?** What's the background of the issue? How did it develop? Do I need any more information? When there's a dispute between two parties you may not have all the information from the other side of the dispute. This can be really important when deciding whether to take action and if so, how. Is there a space for me to collect more information from the other party or third parties?

✔ **Do I know my work rights and entitlements?** Is what I'm asking for based on my rights in the law? Do I have a trusted source to validate my information or to get information about my work rights? If not, do I know whom to reach out to, in order to get more information about my legal rights and employer obligations?

✔ **Does it affect other workers as well?** If the issue affects other workers will other workers take any action? Does the work environment and the employer profile allow for collective action, or would this generate more risks?

✔ **What are the strengths, if any, in my bargaining position?** Does my employer like me? Do we have a good relationship? Will he or she be open to reasonable compromise? Do I have a special skill that will be hard for my employer to find at short notice? Will it be time-consuming for the employer to find a new person to train? Does the employer trust me? Does the employer know that my intention is to claim my right and not to challenge him/her? Would they take my views on board?

✔ **If working informally, is there anything I can do to legalise my status so that I can better claim my rights without fear of consequences?** If I don't know, then who can I approach to get extra information?

✔ **When is the right time to raise the issue?** Is the employer very busy with other important issues? Can I identify the right moment to talk to him/her? Would I get their attention? If the employer is busy with other important work issues, you might consider delaying raising the issue depending on its urgency and severity.

✔ **What are the consequences of raising the issue?** Also, what are the consequences or a fading opportunity if negotiations don't take place or an agreement is not reached.

✔ **Do I need to involve other parties?** In some cases, external parties can have a good influence on the employer when considering your position or asks. In other cases, involving third parties can escalate the issue and leave little space for bargaining, especially with an employer who cares a lot about their reputation among workers and other employers.

✔ **Reflect on the interest of the employer.** What would be his/her interest to consider my demand? Does he/she appreciate my work? Are they willing to lose the opportunity to work with me?

✔ **Do I feel comfortable and ready to express my views, position, needs?**

Good approaches for raising workplace issues with employers include the following:

- ✓ **Plan how to raise the issue.** It's a good idea to practice raising the issue in advance so that you sound clear and confident. Practice a couple of times until you're happy with your approach.
- ✓ **Keep your requests clear and simple.** A complicated or overly detailed explanation may sometimes confuse the employer. Focus on the core issue you want to raise; the most important aspect for you. Once the employer understands the issue, and if he/she is open for discussions you can add further details later.
- ✓ **Be calm, diplomatic and reasonable.** By raising the issue in a calm and reasonable way you're more likely to get a positive reaction. Taking time for self-assessment allows you to identify your priorities, define your bargaining space and be ready to raise the issue in a calm manner. You might choose not to raise the issue right away and reflect, calm down then go with a proposal and structured ideas.
- ✓ **Don't challenge the employer.** Avoid getting angry and challenging the employer, even if the employer gets angry with you. Stay calm, especially if you think that the employer can escalate the dispute, if risks can arise after raising the issue with them, or in case the reaction of the employer is likely to be unpredictable.
- ✓ **Focus on some key asks.** Think about the key points and main requests you want to focus on with your employer. Prioritize the most important issues you want to raise and define the level of compromise you're willing to make.
- ✓ **Pick the right time and location.** Choose the time you think the employer will be in the most receptive mood. Raising an issue with the employer as he/she is getting ready to go home may not be the best time. Choose a location that is discrete and private so as not to put the employer in an awkward situation. Don't raise the issue in front of other employees or in a public space which could result in an argument in front of others or the employer feeling defensive.
- ✓ **Know your facts.** Make sure you know the facts of the dispute and present them in a clear way. Avoid being taken by surprise by new facts you weren't aware of that are relevant to your case.
- ✓ **Know your position.** Do you have a clear position? Or are you open to discuss and find solutions? It's always better to have one or more proposals that you can present to the employer.
- ✓ **Keep any questions specific.** If you need more information, ask the employer for clarification or for further information. Keep your questions specific to avoid vague or general responses. Support any questions with facts. Don't give the employer the feeling that you are questioning them, but rather show them that you are trying to understand the situation and their position and find a common ground.
- ✓ **Open up a space for discussion with the employer.** Ask the employer if he/she has time to discuss the issue. Ask them what suggestions they have for resolving the issue. Even if you have a proposal, show that you're open to ideas and want to work towards a solution.
- ✓ **Choose the right approach.** There are different ways of raising an issue with an employer. You may ask directly with a deadline for action, such as in relation to unpaid wages. You may raise an issue clearly but indirectly to sense the employer's reaction, such as in relation to poor working conditions. Or you might just ask the employer to think about an issue you've raised for a couple of days to see if they can think of a solution. Choose your words carefully and use positive phrases. Avoid pointless arguments.
- ✓ **Get your employer on side.** Pick issues that you have in common and values that the employer shares. Examples could include, "I know that everyone's suffering on account of the economic situation, including businesses and business owners, but the delays in my salary makes it really hard to pay the rent", or "When we're exhausted in the workplace it's harder for us meet our targets. I've got some suggestions to make the workload better for everyone."



- ✓ **Highlight positives, including good past relationships.** Tell your employer any of the things you enjoy about the work or workplace. If you've had a good relationship in the past mention it to show that you are not just being negative.
- ✓ **Listen carefully.** By listening attentively you'll show respect, patience and your willingness to find a solution. You may be able to find areas of agreement and common ground with the employer.
- ✓ **Be prepared for different reactions by the employer.** Anticipate different responses by the employer, including surprise, hostility, frustration, anger but also openness to finding a solution. Think about how you would respond in different situations.
- ✓ **Use good body language.** Body language can escalate or de-escalate a dispute. It can show respect and attention but it can also show fear, disinterest, seem threatening or can give the impression that you are listening or not listening to your employer. Be open and respectful, don't act defensively, look the employer in the eyes. Pick up on the employer's body language as well.
- ✓ **Avoid confrontation.** If the employer becomes hostile or angry, find ways to calm the situation. Don't interrupt the employer and listen to what they have to say. If you feel that the employer is escalating the issue and you feel threatened, you should try end the discussion on a positive note and avoid exposure to risks.
- ✓ **Show appreciation at various stages of the exchange.** If your employer is open to considering your position, if he/she acknowledges the facts you are stating or is willing to compromise.
- ✓ **Ask questions to get more information or to get validation:** "I'm a bit confused, can you share more so I can understand your point?" Get validation: "Do you see my point?", "did I get your point correctly?"
- ✓ **Show the employer that you understand their position** if their position makes sense for you and doesn't involve a big compromise on the core/very important aspects that you want to resolve.
- ✓ **Prioritize your asks.** You might have multiple issues you want to solve. Of course the more issues you can solve the better, but it also depends on the flow of the discussion with the employer, so it's always good to be ready to focus on your top priorities
- ✓ **Restate your position,** if the employer is open, remind them of your intentions, interests, position and needs. Repeat key statements in relation to the issues that are core and very important for you.
- ✓ **Avoid a deadlock discussion especially if the employer is not flexible.** In this case, instead of asking closed questions and leaving no space for bargaining, keep room for exchange and for discussing the issue again if you can't reach a satisfactory settlement.
- ✓ **Be prepared to make an offer** – one of the key strategies you can use is proposing solutions. Don't only state the problem but propose a solution. You can choose to make an offer that goes further than you actually want in order to leave a bargaining space to reduce your demands and get to an acceptable offer. This tactic should be used carefully so, you don't ask for something that is totally not accepted from the employer's side.
- ✓ **Offer a practical solution.** By offering some reasonable and practical options you're more likely to get a solution (or at least a quick answer) instead of long discussions.
- ✓ **Finish the conversation on good terms.** Even if the conversation ends on an angry or abrupt note, try and finish on a positive note. You can still thank the employer for the chat and the chance to raise the issue. Or note that you didn't want to cause any problems but wanted to explain the difficult situation you're in.



## ANNEX 4 ENFORCEMENT OF AN AGREEMENT

If you're reached agreement with your employer, *mabrouk!*

Practical steps in enforcing the agreement are as follows;

- Make sure the **deal is clear for you and covers all the details.**
- Is there an **agreed time frame for action?** Has the employer committed to paying your wages by a particular date? Have they agreed to allow you to take time off for extra hours worked?
- Are you **happy with the deal?** Is it the best outcome or comprise you could get in the circumstances?
- Make sure the deal includes **practical steps on the way forward.**
- If the agreement is simple there may be no need to write it down. However, if the detail is complex or involves timelines, **ask to write it down** for your memory and the employer. You could also ask the employer to sign it.
- Show your **appreciation and thanks** to the employer.

Electrical Repairs (Photo: Tina Abu Hanna/NRC)







East Jerusalem Old City Spice Shop, (Photo; Robert Brauneis/Creative Commons)





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# WORKPLACE NEGOTIATIONS GUIDE

MIDDLE EAST AND NORTH AFRICA (MENA) REGION