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**LEGALIZING LABOUR  
WORK RIGHTS AND  
CONDITIONS FOR SYRIAN  
REFUGEES IN JORDAN**

## Table of Contents

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<b>01</b>	<b>Executive Summary</b>	<b>04</b>
<b>02</b>	<b>Methodology</b>	<b>07</b>
2.1.	General approach	07
2.2.	Limitations	07
<b>03</b>	<b>International Human Rights Framework on Work Rights</b>	<b>08</b>
3.1	The right to work for refugees	08
3.2	The Jordan Compact	09
3.2	Other international work rights protections	10
3.3	Conventions and Treaties ratified by Jordan	11
<b>04</b>	<b>Regulatory Framework in Jordan and its application</b>	<b>12</b>
4.1.	General legal framework	13
4.2.	Work permits	13
4.3.	Worker's rights	17
4.4.	Business rules and regulations in Jordan	20
<b>05</b>	<b>Government Institutions</b>	<b>21</b>
5.1.	Agencies responsible for coordinating the Syria refugee response	22
5.2.	Ministry of Labour	22
<b>06</b>	<b>Refugee experiences with the work rights regime</b>	<b>24</b>
6.1.	Practical significance of work permits	25
6.2.	Respect for work rights	26
6.3.	Resolution of disputes	27
6.4.	Protection risks at the workplace	27
<b>07</b>	<b>Challenges and Obstacles</b>	<b>29</b>
7.1.	Promoting formalisation of the refugee labour market	29
7.2.	Reviewing access to the closed sectors and promoting an inclusive workforce	31
7.3.	Poor working conditions	33
7.4.	Lack of clarity about Social Security entitlements	34
7.5.	Lack of written and inadequate contracts	35
7.6.	Ineffective mechanisms for resolving workplace disputes	36
7.7.	Lack of protection for agricultural workers	37
7.8.	Unclear contractual status of construction workers	38
<b>08</b>	<b>Conclusion</b>	<b>40</b>
<b>09</b>	<b>Recommendations</b>	<b>42</b>

## List of Acronyms

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<b>ASC</b>	Asylum Seeker's Certificate
<b>CBO</b>	Community Based Organisation
<b>CDR</b>	Collaborative Dispute Resolution
<b>CVA</b>	Comprehensive Vulnerability Assessment
<b>EDP</b>	Executive Development Programme
<b>FGD</b>	Focus Group Discussion
<b>GDP</b>	Governorates Development Plan
<b>GFJTU</b>	General Federation of Jordanian Trade Unions
<b>GIS</b>	Generic Information Services
<b>HLP</b>	Housing, Land and Property
<b>ICLA</b>	Information, Counselling and Legal Assistance
<b>ILO</b>	International Labour Organisation
<b>ITS</b>	Informal Tented Settlements
<b>JCLA</b>	Justice Centre for Legal Aid
<b>JRP</b>	Jordan Response Plan
<b>KII</b>	Key Informant Interview
<b>LAS</b>	Legal Awareness Sessions
<b>LCD</b>	Legal and Civil Documentation
<b>MoI</b>	Ministry of Interior
<b>MoL</b>	Ministry of Labour
<b>MOPIC</b>	Ministry of Planning and International Cooperation
<b>MoU</b>	Memorandum of Understanding
<b>NRC</b>	Norwegian Refugee Council
<b>PoR</b>	Proof of Registration
<b>QIZ</b>	Qualifying Industrial Zones
<b>RRP</b>	Refugee Registration Procedures
<b>UNHCR</b>	United Nations High Commissioner for Human Rights
<b>VAF</b>	Vulnerability Assessment Framework
<b>WR</b>	Work Rights
<b>ZOE</b>	Zaatari Employment Office



## 01 Executive Summary

In a significant policy announcement in February 2016, the Jordanian government announced the creation of 200,000 work opportunities for Syrian refugees in Jordan over a three-year period. The announcement was accompanied by a major package of financial support and trade concessions by the EU and other international financial institutions such as the World Bank and welcomed by many in the international community including UN agencies, international donors and I/NGOs as a win-win<sup>1</sup>.

Work opportunities for Syrian refugees in Jordan



**2016**  
February



**200,000**  
work opportunities

Syrian refugees would be provided with an opportunity to earn a livelihood, the Jordanian economy would benefit through financial assistance and preferential trade arrangements and the international community would benefit by assisting Jordan to meet its international law obligations to protect refugees fleeing persecution. For a small country shouldering a disproportionate burden of refugees and itself suffering from a depressed economy on account of conflicts in the region, this was a considerable concession. The co-called 'Jordan Compact' has been lauded as an innovative and effective way to integrate refugees into the local labour market through a collaborative trade package designed to help stimulate and boost the Jordanian economy in the interest of the host community.

## 2 years

on from this announcement, it is timely to review the impact of this policy change and to assess whether or not Syrians have been able to benefit from the opportunities provided to work legally in Jordan and whether their rights to fair working conditions have been respected in practice.

Extensive economic analysis has been conducted in recent years on the Jordanian economy, its capacity to absorb large number of refugees and barriers preventing refugees from entering the labour market<sup>2</sup>. This report, instead, looks at the legal framework for work rights in Jordan, whether those rights are respected in practice and what changes should be made to provide refugees with greater protection of those rights. The report is jointly authored by Tamkeen and NRC drawing heavily on Tamkeen's extensive policy and field experience over many years in protecting the rights of migrant workers and refugees in Jordan and its advocacy with the Government of Jordan to promote legislative changes to ensure fair working conditions. The report also builds on the work conducted by NRC's Information, Counselling and Legal Assistance (ICLA) programme on the legal rights of Syrian refugees in Jordan, particularly on the rights to civil documentation, as contained in the report. 'Registering Rights'<sup>3</sup> and the rights to legal residency status as contained in the report 'Securing Status'<sup>4</sup>. The right to work is a fundamental right for refugees and is contingent on having adequate civil documentation and being legally resident in the host country.

This report is based primarily on qualitative evidence gathered during key informant interviews (KIIs) and focus group discussions (FGDs) with Syrian refugees, government officials, NGO workers and others with expert knowledge on the work rights situation in the country during a field mission in March 2018. Quantitative and qualitative data from other surveys, reports and publications on work rights in Jordan are used as secondary sources to triangulate findings and research. The report has also been updated to reflect some of the important changes in policy and practice impacting on the work rights of Syrians in Jordan since that time.

Whilst primarily focused on the situation of Syrian refugees, the report also contains a broader recommendation on work rights for all refugees in Jordan.

The report is structured in three parts. The first part of the report analyses the legal and policy regime for work permits for Syrian refugees in Jordan. It considers the legislative and regulatory framework, the process for applying for work permits, the sectors in which Syrians can work and work rights and entitlements under Jordanian labour law. The report considers the role played by government institutions and ministries in facilitating the work permits process, resolving disputes and ensuring compliance with Jordanian labour law. The domestic legal framework is juxtaposed against the right to work in international human rights and refugee law.

The second part of the report is based on refugee perceptions of their work rights based on field research conducted by NRC. It looks at the experiences of Syrians in applying for work permits, accessing their rights and resolving workplace disputes. Whilst most refugees value the protections offered by the work permit regime, many refugees feel compelled to work outside the permit regime due to the lack of employer registration or restricted access to formal opportunities. They remain fearful of adverse consequences, but see few alternatives. Refugees generally feel that they cannot protect their rights to fair pay or proper working conditions and are reluctant to complain or challenge employers. There is confusion about social security and work rights protections for agricultural and construction workers. Existing dispute resolution mechanisms, such as the Wages Authority or courts are not always effective in practice even when refugees are willing to complain. Practitioners described slow and bureaucratic processes with decisions which are often difficult to enforce on an unwilling employer.

The report concludes with an analysis of some of the main barriers and obstacles for refugees in working legally in Jordan and accessing their entitlements. These include the challenges of working for businesses that are not legally registered, understanding social security requirements, protecting work rights and accessing effective remedies for workplace disputes.

Whilst major reforms have been made by Jordanian authorities to facilitate access to the labour market for Syrian refugees, further steps are necessary to ensure compliance with the permit regime and to protect the rights of all workers, including those at particular vulnerability such as Syrian refugees.



The report makes a number of specific recommendations as well as the following four broad structural recommendations:

- Measures should be taken to reduce the number of Syrians working without a permit and to encourage formalisation of the refugee labour market. This could include simplified requirements for small businesses to employ refugees, reducing the social security burden on small businesses and penalising businesses that do not comply with their legal obligations. In addition, allowing refugees in Jordan to use their residency permits and MOI cards as authorisation to work would avoid the bureaucracy of the work permit regime whilst promoting the regularisation of the informal economy
- The implementation of recommendations from the recently formed Governmental committee to review the opening of closed sectors to Syrian workers should be structured, supported, and monitored over a 6-12 month period to measure its tangible impact for refugees. Positive measures should be introduced to ensure inclusivity in the labour market particularly in relation to the employment of women, youth, older persons of working age and people with disabilities.
- Improved measures to protect workers' rights should include a government campaign on awareness of worker's rights combined with more robust and better resourced labour inspections to ensure these rights are respected in practice. Donors should help resource a better system of labour inspection. Clear information and assistance should be provided to Syrian workers about their social security entitlements, employer obligations and the options for claiming social security entitlements. Reforms should be made to clarify the employee/employer/contractor relationship in the construction sector to ensure that construction workers in ongoing employment relationships are covered by the Labour Law. Agricultural workers should similarly receive the protection measures within the Labour Law.
- Existing mechanisms for resolving workplace disputes should be revised to improve their effectiveness. The Wages Authority should be restructured and properly resourced to institute a more efficient system for resolution of complaints. This could include a confidential hotline for complaints, a simple complaints procedure, attempts to mediate less complex disputes by specially trained staff within a 4 week period with follow-up to ensure that the issue is resolved and complainants have not faced adverse consequences. The Wages Authority should ensure greater consistency in staff experience and responsiveness in complaints handling. Staff should be trained in principles of mediation. Dispute mechanisms must be sensitive to the concerns of Syrians fearing adverse consequences in the workplace for raising complaints.

## 02 Methodology

### General Approach

This report relies primarily on qualitative evidence gathered through field research conducted in March 2018 by a consultant as well as quantitative data obtained through the work of Tamkeen and NRC's ICLA programme between 2016-2019<sup>5</sup>. A practitioner's workshop was conducted with Tamkeen and ICLA lawyers and other key staff in December 2018 in order to discuss work rights challenges for Syrian refugees.

NRC ICLA has been operational in Jordan since 2012 and has piloted the thematic area of work rights, both in Jordan and globally since late 2016. NRC's ICLA programme provides information services on work rights, as well as individualised counselling and legal assistance services to help Syrian refugees obtain the necessary documents for a work permit, resolve work disputes and understand their work rights in general.

Tamkeen is a Jordanian NGO actively working towards increased awareness of both Syrian refugees and Jordanian employers regarding Jordanian labour law, in addition to striving for the elimination of workers' human rights violations, and combating human trafficking. Tamkeen's support in complex cases through counselling and mediation is key to protect Syrian refugees' employment rights.

In addition to the data obtained through field research and beneficiary data, a range of secondary resources and reports have been used to supplement the primary data. The field research took place from 3 to 16 March 2018 and included both Key Informant Interviews (KIIs) and Focus Group Discussions (FGD). Twenty seven individuals were selected for KIIs based on their knowledge and experience relating to the situation of Syrian refugees in Jordan with emphasis on those with expert knowledge of the practical situation related to labour rights. Interviews were qualitative, in-depth, and semi-structured. KIIs were held in Community Based Organisation (CBO) field offices with a further KII that was conducted in an Informal Tented Settlement (ITS) in Mafraq with refugees and their representatives. Six FGDs involving 21 men and 12 women were held in Amman, Mafraq, Ramtha and Irbid. Between four and eight partic-

ipants participated per session and were invited to freely discuss issues, ideas, and experiences relating to work rights for Syrian refugees. The criteria used for selection was designed to include men and women of working ages, in the fields of agriculture, construction and services as well as those not currently in work. Focus groups were homogeneous, with participants of similar backgrounds to the extent possible. In the course of the field mission the consultant attended a number of legal empowerment activities conducted by NRC focusing on work rights including an ICLA Work Rights information session and two ICLA legal counselling sessions.

Discussions were conducted with NRC, Tamkeen, lawyers from the Justice Centre for Legal Aid (JCLA), Ministry of Labour (MoL) officials and other relevant stakeholders to accurately understand both the law and practice relating to work rights and work permits in Jordan. A workshop conducted on 9 December 2018 considered the experience of lawyers and case workers assisting Syrian refugees with work rights issues. These included a reluctance by refugees to complain about conditions, a lack of clarity about coverage of construction and agricultural workers under the Labour Law and different perspectives on the effectiveness of dispute resolution bodies such as the Wages Authority and courts.

### 2.2 Limitations

In order to obtain a cross section of views field visits were organised to Irbid, Ramtha, Mafraq and Amman. Participants for FGDs and KIIs were selected by ICLA, or their NGO partners, and cannot, necessarily, be regarded as representing all issues faced by refugees on work rights. Refugees living in the camps were not included in information gathering activities and this report is therefore more relevant for those living outside of the camps.

Approximately 7.2% of work permits issued to Syrians are in the manufacturing sector and this includes those working in Qualifying Industrial Zones (QIZs)<sup>6</sup>. There was no opportunity to meet Syrian refugees working in these zones or this sector, hence some of the findings in the report may not be applicable to this sector.



## 03 International Human Rights Framework on Work Rights

### 3.1 The right to work for refugees

The scope of the right to work owed by host countries to refugees under principles of international human rights law is central to any analysis of work rights. This includes not only the Refugee Convention, but international human rights conventions and treaties, both general and specific, customary international law and other international documents, statements and principles which comprise 'soft law' or an evolving non-binding practice amongst states. Of significance is an emerging consensus embodied in the Global Compact on Refugees and the New York Declaration on Refugees and Migrants, which holds that the international community must provide countries hosting disproportionately large numbers of refugees with financial assistance and support to allow for a more equitable distribution of this burden. In return for providing livelihood opportunities to refugees, this support will include measures to support the national economy, to reduce tensions with the host community, to promote principles of social cohesion and to explore alternative migration pathways.

Under international human rights law and in accordance with the Refugee Convention, refugees are entitled to the qualified right to work in the countries hosting them.

Article 17 of the Refugee Convention states that:

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who... fulfils one of the following conditions:

(a) He has completed three years' residence in the country;

In other words, principles of refugee law require that hosting countries provide work rights to refugees on the same terms and conditions as they do to foreign nationals or migrant workers with the best access to work rights in that country. Refugees are entitled to the same opportunities, the same types of occupations and the same terms and conditions. However, after three years of legal residence, restrictive measures applied to refugees for the protection

of the national labour market should cease. In other words, refugees should be able to work in all professions available to Jordanians, not just the open professions following three years of residence. This would apply to almost all Syrian refugees in Jordan, the majority of whom have held legal residence in Jordan for much longer than three years. The obligations under the Refugee Convention extend further to refugees who are self-employed<sup>7</sup> and to the 'liberal professions' (professional jobs)<sup>8</sup>. This obliges States to allow refugees to be self-employed or set up businesses on the same terms as foreign nationals and to have their professional qualifications recognised in the same way as foreign nationals. These rights are mirrored for stateless persons in the Convention relating to the Status of Stateless Persons<sup>9</sup> Article 24(1)(a) and (b) of the Refugee Convention further provides that certain labour rights including those in relation to remuneration, hours of work, overtime, holidays, social security entitlements and certain other rights should be applied equally to both nationals and non-nationals without distinction.

Whilst Jordan is not a signatory to the Refugee Convention, it has signed a Memorandum of Understanding (MOU) with UNHCR giving UNHCR the right to determine the refugee status of asylum seekers in Jordan and providing certain guarantees such as the prohibition on non-refoulement and access to courts and legal assistance<sup>10</sup>. This MOU has become the legal framework under which refugees are treated and processed in Jordan. In relation to work, the MOU acknowledges the need for refugees residing lawfully in Jordan to provide a living for their families<sup>11</sup> and authorises those with degrees recognised by the Jordanian authorities to practice certain professions as determined by law and regulations<sup>12</sup>. As a member of the UNHCR Executive Committee, Jordan engages at the highest level with issues of refugee law and policy including the implementation of the Refugee Convention<sup>13</sup>.

The New York Declaration for Refugees and Migrants, adopted by the UN General Assembly in October 2016 sets out various commitments made by the international community to assist refugees and migrants. The Declaration encourages refugee hosting states to open their labour markets to refugees and expand livelihoods opportunities. In return the international community will support job creation and income generation schemes<sup>14</sup>. The ILO Guiding Principles on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market provide a further detailed range of measures that ILO Member States are encouraged to take to assist refugees integrate into the local labour market. The Principles also set out necessary measures to protect refugees from exploitation and to safeguard their basic rights as workers<sup>15</sup>. They urge members to formulate national politics and action plans in "conformity with international labour standards, decent work principles, humanitarian principles, obligations under international law, including human rights law and refugee law, as applicable..."<sup>16</sup>

### 3.2 The Jordan Compact

Despite being a non-signatory to the Refugee Convention the government of Jordan has made serious and evolving efforts in creating integrative space for Syrian refugees in the local labour market. One of the first steps was the adoption of the Jordan Compact which was an annex within the European Union and Jordan Partnership Priorities document. The Compact was written to guide actions towards improved living conditions of both Syrian refugees and the Jordanian host communities. The Compact outlined commitments from both parties which included significant financial support from EU members to finance programming that focused on livelihood support, education, private sector development, and justice and political reform.

The Compact stipulates that Jordan will "continue to provide an appropriate protection environment and conditions for a dignified life including a legal status for Syrian refugees, living inside or outside camps." In order to support the actions taken by Jordan in providing this protective environment, the "EU will continue to provide a sustained level of humanitarian assistance, and continue focusing on core life-saving assistance, responding to the basic needs of the most vulnerable refugees living in camps and urban settings, as well as of new arrivals, with a specific emphasis on children's and women's needs."

A second component of the compact, and one of the more innovating elements was the use of trade policy in encouraging Jordan to facilitate the integration of Syrian refugees into the local labour market. Within the Compact, the EU committed to reviewing and changing its system on the rules of origin, which had the potential to open up new lucrative markets to Jordanian manufactures within the Industrial Zones.

However, these relaxing of the rules and access to some EU monetary support were also linked to Jordan meeting specific commitments including:

- Creating 200,000 work opportunities for Syrian refugees (measured by work permit registration)
- Private Sector within Qualified Industrial Zones meeting certain quotas of Syrian Refugee Labour within specified time frames (eligibility requires 15 % Syrian Refugee Labour for the 1st year to 25% for the second year)
- The facilitation of the administrative status of Syrian refugees to enable their access to employment and basic services, and capacity to establish a business within and outside camps

The Jordan Compact<sup>17</sup>, with the strong emphasis on protection has set an important and positive tone for all stakeholders working on these issues in Jordan. The impact of the document has been significant in promoting and incentivising Syrian refugee integration. However, over time,

and with failures in achieving the Compact's true intentions, certain elements of the document have been criticized primarily the simplistic, output oriented metrics used and the assumptions made regarding the needs and willingness of Syrian refugees to participate in certain occupations such as manufacturing<sup>18</sup>. That being said, it is important to note that the Compact is a living document and over the course of its lifespan has undergone a series of reviews and adaptations driven by the London Initiative and Brussels conferences, and continuous evaluations which have all promoted the evolution of how the international community and the Jordanian government are responding.

For example, the Ministry of Labour has strived to limit the barriers for Syrian refugees in accessing work permits by allowing Syrian refugees to have access to all occupations open to non-Jordanians; waiving permit fees for Syrians from work permit costs and offering non-employer specific work permits in the construction and agriculture sector through decentralized agents. Syrian employees may transfer from one employer to another if his/her work permit has expired or cancelled without the clearance of the first employer<sup>19</sup>.

Obstacles still remain, as many professions remain closed to Syrian refugees. However, Syrian refugees are entitled to apply for jobs in the 'closed professions' on the same basis as other foreign nationals, such as when they possess a qualification not available amongst Jordanians or by demonstrating that there are not enough Jordanian workers to meet employer's labour demands<sup>20</sup>. In addition, in 2018 Jordan has committed to establishing an employment committee to conduct market analysis order to provide data driven recommendations for opening closed sectors and to also make revisions to the quota system for open sectors<sup>21</sup>.

In order to improve the private sector environment and promote job creation, Jordan has clarified that Syrians are able to establish businesses under the same terms and conditions as other foreign nationals. The government has also reduced the amount of start-up capital necessary and created pathways in creating joint ventures. In late 2018, the Cabinet also formally issued a decision that allowed for Syrian refugees in both camps and host to operate home-based businesses. Although the sectors are limited for Syrians living in the host communities to food processing, handicrafts and tailoring, Jordanian partner is no longer needed for such businesses<sup>22</sup>.

The Jordan Compact has been effective in setting up policies that facilitate and promote Syrian refugees into the formal labour market. However, policies development is the first step, implementation and enforcement of these policies are where there have been challenges. For one, as policies keep evolving and shifting, agencies, both local and international, have difficulties keeping up with the changes. This is especially true with government stakeholders at the governorate level where policy changes in Amman

fail to resonate. Private sector stakeholders are even more confused and have difficulties navigating the shifting legal specifications with regards to their process and employer obligations when hiring Syrians. Moreover, both job seekers and employers have doubts and misunderstandings on the benefits of work permits, nor do they feel pressure from authorities to follow the law so there is little incentive for either parties to formalize.

As this paper will further explore, the Compact was a positive start to integrating Syrians into a protective labour law, however, the implementation and enforcement of existing and evolving policies must be prioritized to effectively ensure decent work is provided to Syrian labour.

Separately from its Jordan Compact commitments, Jordan has facilitated the regularisation of status of Syrian refugees within the community through an amnesty, as a large number of Syrian refugees had left camps in Jordan without permission and without a residence permit, they were unable to apply for work rights. In February 2018 the Government announced that Syrian refugees who left the camps without permission up to 1 July 2017 would be allowed to legalise their status within the community and obtain MOI cards. This, in turn, would allow them to apply for work permits. Camp residents were also allowed to apply for work permits. Up to May 2019, 23,000 Syrian refugees had been able to obtain Asylum Seeker Certificates under the government amnesty with 19,000 receiving MOI cards<sup>23</sup>.

### 3.2 Other international work rights protections

More general statements on the right to work not specific to refugees are contained in other international human rights documents. The Universal Declaration of Human Rights, at Article 23, notes that everyone has the right to work, whilst the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes *"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>24</sup>. Men and women should be provided with equal access to the right to work on a non-discriminatory basis<sup>25</sup>. The UN Committee on the ICESCR has noted that the right to work is essential for realising other human rights and forms an inseparable and inherent part of human dignity<sup>26</sup>. Within the MENA region, the Cairo Declaration on Human Rights in Islam notes that work is a right guaranteed by the State and the Society for each person with capability to work<sup>27</sup>.

Article 32 of the Convention on the Rights of the Child prohibits child labour and obliges States to protect children from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development<sup>28</sup>. The ILO Minimum Age Convention proscribes a minimum working age of 15 years<sup>29</sup>. The right

to work for disabled persons is protected under the Convention on the Rights of Persons with Disabilities<sup>30</sup>.

Of interest is the International Convention on the Protection of the Rights of All Migrant Workers and their Families which obliges States to ensure the protection of contractual entitlements despite any irregularity in the worker's stay or employment<sup>31</sup>. This separates the administrative responsibility on workers to ensure that are legally authorised to work and reside in a country, from their relationship with employers which protects their basic rights and entitlements, regardless of whether they are working formally or informally. In other words, foreign workers are responsible for ensuring they have legal work permits. However, they are entitled to fair working conditions and remuneration from employers even if they do not have permits.

### 3.3 Conventions and Treaties ratified by Jordan

Whilst Jordan has not signed the Refugee Convention, it has signed other Conventions and Treaties containing work rights protections under international law. Many of these Conventions fall under the supervision of the International Labour Organisation. Treaties Jordan has signed include the following:

- Abolition of Forced Labour Convention
- Convention on the Rights of the Child
- International Convention on Civil and Political Rights
- Discrimination (Employment and Occupation) Convention
- International Convention on Economic, Social and Cultural Rights
- Equal Remuneration Convention
- Equality of Treatment (Social Security) Convention
- Constitution of the International Labour Organisation
- Labour Inspection Convention
- Right to Organise and Collective Bargaining Convention
- Minimum Age Convention
- Worst Forms of Child Labour Convention

Most of these Conventions are of general application for all workers resident in the country (both Jordanian and non-Jordanian), and are not specifically directed to refugees and migrants. Consequently Jordan is responsible for meeting all obligations under these documents for Jordanian nationals, refugees and migrant workers in Jordan.





## 04 Regulatory framework in Jordan and its application

### 4.1 General legal framework

Jordan has a mixed legal system based on civil law, Sharia law, and customary law. The foundational source of law in the country is the Constitution, passed in 1952 and amended several times under which a parliamentary system was established. Under the Constitution, the King ratifies and promulgates laws and directs the enactment of regulations which are the responsibility of the Prime Minister and Council of Ministers to pass and implement. The Council of Ministers is entrusted with administering all of the internal and external affairs of the State. Laws must pass both the Chamber of Deputies and the Senate, and be ratified by the King.

Article 21(1) of the Jordanian Constitution provides that “political refugees shall not be extradited on account of their political beliefs or for their defense of liberty.”

The regulatory framework with respect to work rights in Jordan is primarily the Constitution as well as the Labour Law (8) of 1996. (‘the Labour Law’)<sup>32</sup> Other relevant laws include the Social Security Law (1) of 2014. It should be noted that under these laws a series of regulations have also been passed, in addition to directives, by-laws, decisions and circulars, which are usually administrative decisions to implement the underlying legislation.

### 4.2 Work permits

#### Legislative and policy framework

There is no mention of refugees or asylum seekers under the Jordanian Labour Law. Under Jordanian law, employers of non-Jordanian workers are legally required to obtain a work permit from the local Labour Directorate of the Ministry of Labour (MoL)<sup>33</sup> The Labour Law treats all non-Jordanians equally in terms of requiring the permission of the MoL in order to work. However, the GoJ has in practice, and legally since the Jordan Compact was signed, recognized the special situation of Syrians as refugees rather than as migrant workers and has developed regulations accordingly<sup>34</sup>. The ‘Comprehensive Instructions on Conditions and Procedures of Employment of Non-Jordanians of Syrian nationality workers for 2018’ (issued according to Article 12(a) of the Labour Law and its Amendments No. 8 of 1996 ‘Comprehensive Instructions’) provides important concessions for Syrian workers. They may move freely between employment sectors and do not require the clearance of the previous employer for transfer between employers in the case of termination or cancellation of work permit<sup>35</sup>.

Of further relevance is a bilateral workforce cooperation agreement signed between Jordan and Syria in 2001 which facilitated the employment of Jordanians and Syrians in either country. Article 2 of this cooperation agreement noted that “the conditions and terms of employing labour shall be

specified by an employment contract between the worker and the employer”<sup>36</sup>. The 2008 Agreement on Regulation of Recruitment and Hiring Workforce between Jordan and Syria specified that all recruitment should be done in accordance with the rules and regulations of the respective country and obliged both countries to ease the process of hiring and recruitment of nationals between the countries. Such agreements also provide a legal basis for the preferential treatment of Syrian workers in Jordan over and above the situation of migrant workers without such bilateral agreements.

Refugee work permits are governed by the migrant worker sector-based quota system, which allows pre-set numbers of foreign workers in specific sectors while limiting or closing off sectors where competition with Jordanians may be high. Jordan has a Closed Professions List, published by the MoL, with at least 19 job types specified as closed to non-Jordanians. The following professions are listed in the decision as open to Jordanians and closed for non-Jordanians.

	Administrative and accounting professions
	Clerical work including typing and secretarial work
	Switchboards, telephones and connection works
	Warehouse works
	Sales works including all groups
	Decoration works
	Fuel selling in main cities
	Electricity professions
	Mechanical and car repair professions
	Drivers
	Guards and servants
	Medical professions
	Engineering professions
	Haircutting works
	Teaching professions including all specialties except for the rare ones when there is no Jordanian available
	Loading and unloading works in the fruit and vegetable market
	Loading and unloading works in malls and supermarkets
	Cleaning workers in private schools and hotels
	Regional offices for foreign companies

### What is a work permit?

A work permit is an authorization for a non-Jordanian to work legally in the country and is required for all Syrian refugees who want to work. It is not a contract and does not give anyone a guarantee of employment. A work permit is usually issued for a period of 12 months and can be renewed. A work permit is commonly issued after sponsorship from an employer however Syrians are also eligible to apply for 'freelance' work permits for the agricultural and construction sectors. Under Article 12(G) of the Labour Law any employee who is caught working without a permit shall be deported from the country, however the GoJ is currently relocating offenders to one of the refugee camps rather than deporting any Syrian back to Syria.

### General framework for Syrians to obtain a work permit

Since the Jordan Compact the GoJ has given priority to Syrian refugees by temporarily restricting the entry of new migrant workers and by suspending work permit fees for Syrians. Work permit fees have now been suspended for a 7th time with the current suspension until 31st December 2019<sup>37</sup>.

The general rule under Jordanian Labour Law, outside of agriculture and construction, is that Syrian refugees apply for a work permit through an employer and the work permit ties the worker to that employer. Work permits are typically granted for a period of 12 months and can be renewed thereafter although recent instructions issued by the Ministry of Labour permit temporary 6 month permits for Syrians without a previous work permit<sup>38</sup>. There are also cash-for-work schemes, usually implemented by international aid organisations, which allow for work permits to be issued for a maximum of 6 months.

Refugee work permits are governed by the migrant worker sector-based quota system, which allows pre-set numbers of foreign workers in specific sectors while limiting or closing off sectors where competition with Jordanians may be high. The quota system is managed by the MoL which sets the minimum percentage of workers that must be from Jordan, depending on the sector and also the location of the work (quotas vary inside QIZs). Many of the key informants interviewed during this research reported that the industry and manufacturing sectors have had great difficulty in meeting these quotas due to the challenge of attracting and retaining Jordanian staff. However quota limitation expired on 1st of April 2019, and nothing official re-imposing quotas has been issued since that time<sup>39</sup>.

Watering your plants and watching them grow... it feels like you are watching your children grow in front of you." - Amal (55), female laborer working with the GIZ funded CfW project in Jordan.



### Obtaining a Work Permit Registration

Being registered with UNHCR and having a MOI service card is the most important criteria for a Syrian refugee to obtain a work permit.

#### A) Syrians residing outside of refugee camps.

A Syrian refugee residing outside the camps must be registered with UNHCR. Once registered they will be issued an Asylum Seeker Certificate (ASC). With the ASC they can obtain a Ministry of Interior (MOI) service card which specifies the location where they have the right to live.

#### B) Syrians residing inside refugee camps.

Residents of official refugee camps are issued with a Proof of Registration (PoR) by UNHCR.

### Agricultural and construction sectors

In May 2016, the GoJ allowed Cooperatives to apply for work permits on behalf of Syrian refugee workers in the agriculture and construction sectors. Cooperatives are not-for-profit associations registered under the Cooperatives Law of 1997 which act in the mutual interest of its members, typically workers or small farmers. They work to reduce costs for the sale of agricultural goods by members and provide services, such as loans to members in addition to performing other community functions<sup>40</sup>. This decision to delegate the issuance of work permits to Cooperatives was made in the context of the seasonal labour demand in agriculture and allows workers the flexibility to move between employers within the sector. These permits are therefore non-employer specific permits and are often referred to as 'freelance' permits.

In 2017 the MoL signed an MoU with the General Federation of Jordanian Trade Unions (GFJTU) waiving the quotas for hiring Jordanian labour in the construction sector. The MoU also enables Syrian employees to move freely between employers in the sector after they receive permission from the Ministry, their first employer and the new employer. The work permit is issued through the Construction Contractors Association (similarly to the ones issued in agriculture by Cooperatives). The MoU also stipulates that construction workers should be covered by a private insurance scheme which costs 45 Jordanian dinars per year (about \$US65)<sup>41</sup>.

### Obtaining a Work Permit Sponsored work permits

If a refugee has found a job it is the responsibility of the employer to ensure that a valid work permit is issued before work commences. It is also the employer's responsibility to cover all application costs, if applicable. The application for a work permit is made at the Labour Directorate Office.

#### The following documents are required by the employer:

- Certificate of Incorporation/ Commercial Registry Certificate
- Professional licence certificate
- A statement from Social Security confirming registration of the company
- A statement from Social Security listing the employees of the company (first time employees will not be on this list but Social Security subscription will be requested upon renewal)
- Two copies of a written contract signed by both parties (employer and employee)
- Identity card of the employer or an authorization from the employer allowing a delegate to apply for the work permit signed by the employer
- Bank statement or Legal Guarantee of the company. This is requested for all sectors, except for the work permit programmes in Agriculture and Construction sector.

#### The employee must submit the following:

- Valid MOI service card
- 1 passport photograph

### Obtaining a Work Permit STEP C: Freelance work permits

A Syrian refugee, in or outside of camps, can apply for a freelance work permit in the agricultural and construction sectors.

For agriculture they must apply to their local agricultural cooperative which has been authorised to issue permits. The cooperative will attach the registration certificate of the cooperative, which is issued by the Jordanian Cooperative Enterprise, and a letter from the cooperative requesting the work permit to the application. The applicant is required to bring the following documents:

- Valid MOI service card
- 1 passport photograph

For a construction permit the application must be made at the local GFJTU office which has been authorised to issue permits. The applicant is required to bring the following documents:

- Valid MOI service card
- 1 passport photograph

- Payment of 45JD for mandatory insurance
- The Ministry of Labour has simplified the process for issuance and renewal of work permits as well as arrangements for movement between employers upon the expiry of work permits.

In particular, the MoL decision and subsequent amendments allows Syrian workers the following:

- The ability to move between all sectors<sup>42</sup>
- No recognition of prior learning for issuance of work permit in the construction sector is required
- Transfer from one employer to another if his/her work permit has expired or cancelled without the clearance of the first employer<sup>43</sup>



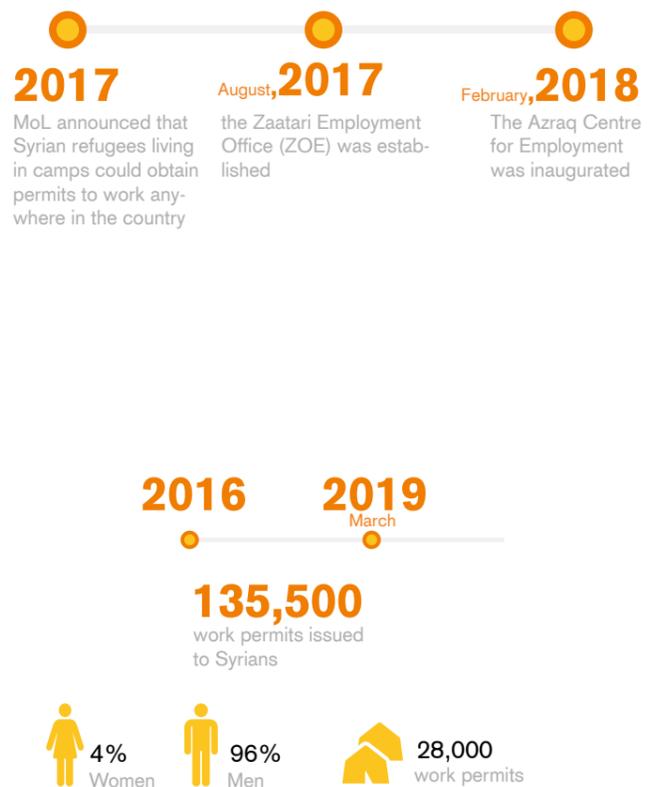
### Refugees in the camps

In February 2017 the MoL announced that Syrian refugees living in camps could obtain permits to work anywhere in the country. They must however have a MOI service card for residents of camps. The work permit allows the holder to reside outside the camp for up to one month at any one time. A refugee inside a camp can also apply for a freelance work permit in the agriculture and construction sectors.

In Zaatari refugee camp, the largest camp for Syrian refugees in Jordan, the Zaatari Employment Office (ZOE) was established in August 2017 which, run jointly by the International Labour Organization (ILO) and UNHCR, provides assistance to Syrian refugees to obtain work permits. The Azraq Centre for Employment was inaugurated on 18 February 2018<sup>44</sup>.

### Numbers of work permits issued

The cumulative number of work permits issued to Syrians since 2016 is 135,500 up to the end of March 2019<sup>45</sup>. Of the total number only 4% have been issued to women<sup>46</sup>. The overall number of permits issued, confusingly, includes permits which have been renewed and the total number of Syrian refugees with active work permits is estimated at 40-42,000<sup>47</sup>. 28,000 work permits have been issued to camp residents.



A 2017 ILO report states that. *“work permits can also be a deceptive indicator because they do not necessarily measure actual job creation but rather the legalisation of employment. Indeed the vast majority of work permits delivered so far have been to Syrian refugees who were already working.”*<sup>48</sup> The same report highlights that since the Compact was signed there is no evidence that any new jobs have been created however some Syrians, previously working informally, are now working with a valid work permit.

The following table shows the main 5 sectors for which permits have been issued<sup>49</sup>.

Total % of permits issued from 2016 until end of March 2019	Sector
16.23%	Construction
38.29%	Agriculture, forestry and fishing
14.61%	Manufacturing
10.59%	Hospitality and food service industries
11.52%	Wholesale and retail trade, repair of motor vehicles

The number of work permits issued under the umbrella of the GFJTU for the construction sector up to March 2019 is 14,140<sup>50</sup>. The number of work permits issued under the Cooperatives for the agricultural sector since 2016 up to the end of March 2019 is 33,365.

Some significant progress has been made with respect to the issuance of work permits since the commencement of the Jordan Compact in 2016. Work permits for Syrians are essentially free and the process for applying for permits has been simplified. The creation of freelance work permits for the agricultural and construction sectors is also positive as it reflects the temporary and seasonal nature of much of the work in those sectors. Nevertheless, the focus has been placed on issuing permits to those already working in open sectors rather than opening new sectors or creating new job opportunities.

### 4.3 Workers' rights

Under the Labour Law all workers, whether they have work permits or not, are granted certain rights and have obligations to their employers. The Labour Law provides for extensive protection to workers and also employers.

#### Rights and Obligations

The following are the key rights and obligations as specified in the Labour Law<sup>51</sup>:

##### I. Contract

- The basic rights contained in the Labour Law cannot be abrogated even if specifically excluded in the employment contract.
- Every employee has the right to an employment contract, oral or written, setting out the agreement between the employer and employee and the work conditions.

## II. Minimum wage and payment

- Every employee has the right to a minimum wage. The minimum wage for non-Jordanians is JD150 and for Jordanians is JD220. The employer can be fined between JOD50-200 each instance of payment below the minimum wage. The penalty can be doubled for repeat violations<sup>52</sup>.
- Wages have to be paid within a maximum of seven days from the date they are due.
- No amount may be deducted from the employees wage except in specified cases.

## III. Leave and days off

- Every worker has the right to have a day off on Friday unless the nature of the work requires otherwise. In that case, the day off may be any other day of the week.
- Every worker has the right to 14 fully paid days of annual leave. After 5 consecutive years with the same employer the entitlement becomes 21 days of annual leave.
- An employee has the right to 14 days of fully paid sick leave during one year based on a certified medical report. Sick leave may be extended for another 14 days with full pay if the employee is a resident patient in a hospital or based on a medical report by a medical committee.
- Women have the right to paid maternity leave for a total of 10 weeks (paid by social security), and the right to one paid hour for nursing per day for a period of one year from the date of delivery.

## IV. Maximum working hours and overtime

- Maximum working hours are up to 48 hours per week. If an employee works for more than eight hours per day and 48 hours per week, he/she is entitled to overtime compensation. Time allocated for food and rest is not considered part of working hours.
- A worker has the right to receive overtime compensation if working on weekends or national/religious holidays. The employee may agree to work over the regular working hours. In that case, the overtime wage is 125% of his usual wage during weekdays and 150% during holidays, public holidays and weekly holidays.

## V. Social security, protection against injury, health & safety

- Every employee has the right to be enrolled into social security<sup>53</sup>.
- Every employee the right to be medically treated and receive compensation in the case of any work-related injury.
- The employer must provide the necessary precautions and measures to protect employees from the hazards and diseases that may result from the work as well as from machines used in the workplace. This includes providing personal protection and prevention equipment from the

hazards of work and occupational diseases such as clothes, eye glasses, gloves, shoes as well as instructing them on its use, maintenance and cleaning. Employees are not to be forced to absorb any of the extra costs associated with this protection. A range of other protection is set out under the law.

- If the employer violates any of the health & safety provisions of the law the MoL can order the establishment, or the part of it with the hazard, to be closed down until the hazard is removed.

## VI. General work rights

- The employee has the right to keep his/her passport and all his/her personal and identity documents.
- The worker must carry his/her work permit at all times and it needs to be presented to official authorities when requested.
- If the contract is for an unlimited period, the period of notice of termination of contract from either party is 1 month.
- An employee cannot be sacked or have disciplinary action taken against them for submitting a claim for rights under the Labour Law.
- Every employer who engages ten employees or more should draft human resource regulations outlining policy on working hours, daily and weekly rest periods, code of conduct etc which shall be subject to ratification by the MoL.

## VI. Children

- It is illegal to hire anyone under the age of 16.
- Children under 17 cannot be required to do any job which could be hazardous or detrimental to their health.
- Juveniles (under 18s) cannot work more than 6 hours per day, over nights or on religious holidays (Fridays, etc).

## VIII. Obligations on employees

The Employee:

- Cannot sub-contract the work duties to others and must comply with the ordinary instructions for carrying out the work issued by the employer unless those instructions expose him/her to danger.
- Must keep the employers industrial and commercial secrets and not disclose them in any manner even after the expiry of the work contract.
- Should be careful in maintaining the things handed over to him for the performance of work including the work, tools, materials and other supplies relating to his work.

## IX. Dismissal

The employer can discharge the employee without notice in the following cases:

- If the employee impersonates another person or submits forged certificates or documents, with the intention of

obtaining a benefit for himself or to bring harm to someone else;

- If the employee does not fulfill the obligations consequent upon him under the work contract.
- If the employee commits an error which resulted in serious material loss to the employer provided that the employer notifies the authorities within 5 days of becoming aware of the fault. .
- If the employee violates the internal regulations of the employer including the safety conditions of work, although he/she must be given a warning in writing twice.
- If the employee absents himself without legitimate reason for more than twenty intermittent days during the year or more than ten consecutive days. The dismissal must be preceded by a written warning to be mailed by registered post to his address and published once in one of the local dailies.
- If the employee discloses work secrets.
- If the employee is convicted, by a court decision which has become conclusive, of a felony or misdemeanor touching on honor and public morals.
- If employee is found unmistakably drunk or under the influence of narcotics. or if he/she has committed, an act violating principles of moral conducts at the workplace.
- If the employee assaults the employer, the manager in charge, one of his superiors, any employees or any other person during work.

## X. Quitting without a Notice:

In return, an Employee may be entitled to leave his/her employment without notice while preserving the legal rights to end of service indemnities and entitlements to damages if:

- the Employee is employed in work different in nature from that agreed in the contract;
- the Employee is employed in conditions that necessitate a change in residence, unless previously stipulated in the contract;
- the Employee is downgraded from the agreed level of employment;
- the Employee's remuneration is lowered;
- a medical report issued by a medical authority proves that the work, if continued, could be hazardous to health;
- the Employer assaults, strikes or insults the Employee
- the Employer fails to comply with any provisions in the Labour Law, provided that he/she has received notification from the appropriate body in the Ministry of Labour calling for compliance with such provisions.

Employees are able to move from one employer to another under the employer sponsorship system<sup>54</sup> However, the new employer must initiate a new work permit application and pay the application fees. The employee must also obtain a clearance from the previous employer which can



Badran and Ahmad Etoum. University graduates working in the GIZ funded CfW project in Jerash, Jordan. The young men are working in adding compost to the soil before the actual planting takes place around the Royal botanical garden premises.

cause problems if the employee has left their previous employment on bad terms, which is often the reason for changing employers. The outgoing employer often asks former employees to sign a document confirming that they have no complaint against the previous employer and will take no action against them before agreeing to sign the clearance for transfer to the new employer. However in a recent concession to Syrian workers, there is no longer any need for Syrian workers to obtain employer clearance if their work permit has been cancelled or has expired. Nevertheless, they are still required to obtain a clearance in other circumstances such a transfer to a new employer when the work permit is still active and in order to reclaim social security entitlements..

Social security subscription in Jordan is a key aspect of worker's rights and is regulated under the Social Security Law of 2014. It provides coverage for workers in the event of work injury, disability, death, maternity, unemployment and old age..

Social security is mandatory with the exception of household helpers and unskilled agricultural workers<sup>55</sup>. Syrian workers in the construction sector (registered through the GFJTU) are also exempted from the subscription for social security and instead must subscribe to private insurance when obtaining their work permits. The subscription is a joint responsibility of the employer and the employee and is to be paid on monthly basis.

Reclaiming social security contributions is possible for non-Jordanian employees in certain situations. They may reclaim contributions for a first time upon proof of cancellation of their work permit. If the amount to be claimed is higher than JD1,000 they additionally require a clearance from the Jordanian Institute of Income Tax. Reclaiming subscriptions a second time is possible if the employee has contributed over 24 months. Claiming reimbursement a third time is only possible at the age of retirement.<sup>56</sup> In practice this means that many Syrian workers will be able to reclaim social security subscriptions at the time of departure from Jordan.

Whilst protections offered to worker under the Labour Law are wide-ranging, they not apply to all categories of employees, notably those in the agricultural sector. Article 3 (D) of the Labour Law specifies that the law does not apply to agricultural employees *“except those who are included under the provisions of the law by a resolution of the Council of Ministers upon the recommendation of the Minister”*. A 2003 regulation issued by the MoL extends the provision of the Labour Law, with some chapters of it excluded, to some skilled types of agricultural workers such as agricultural engineers and veterinarians.<sup>57</sup> However it does not apply to most Syrian agricultural laborers. Accordingly, it is unclear what work rights protection, if any, is accorded to Syrian agricultural workers.

#### 4.4 Business rules and regulations in Jordan

Whilst this report focuses on the domestic work rights regime in Jordan, it is worth making brief reference to business laws and regulations in Jordan. Many Syrians working without a permit do so because their employer is not a registered business. Regularising the business is key to regularising their employment. Establishment of a business in Jordan typically involves a two-step process whereby the business is required to be both registered and licensed. Registration is regulated by the Ministry of Industry, Trade and Supply (MOITS) whilst municipalities are responsible for the issuance of vocational licenses. Following business registration, all businesses in Jordan must meet certain reporting requirements to remain registered on an ongoing basis, including payment of income tax.

Many Jordanian employers do not register their business in order to avoid paying tax, and social security on behalf of employees. As an unregistered business they cannot apply for work permits for Syrian employees.

However as of November 2018 Syrians are allowed to operate home-based businesses throughout Jordan in three sectors namely; food processing, handicrafts and tailoring. Processes for obtaining the necessary security approvals have now been simplified and shortened and there is no longer any requirement for Syrian refugees to have a Jordanian partner in their business. There are no sector limitations for Syrian refugees operating home-based businesses in camps.<sup>58</sup>





### Agencies

play a role in operationalising the government's response to the Syrian refugee crisis.



### Ministry of Labour

The role of the MoL is to regulate all labour issues in the country.

## 5.1 Agencies responsible for coordinating the Syria refugee response



A number of Jordanian government institutions play a role in operationalising the government's response to the Syrian refugee crisis. In 2013 the GoJ established the Host Community Support Platform (HCSP) to address the impact of the crisis on Jordanian host communities. In 2014, the HCSP became the Jordan Response Platform (JRP) for the Syrian Crisis under MOPIC. In addition in 2014 the MoL created the Syrian Refugee Affairs Directorate (SRAD), which is the main government entity for coordination of refugee issues in the country.

The JRP under MOPIC is the strategic partnership mechanism between the GoJ, donors, UN agencies and NGOs for the development of an integrated refugee, resilience-strengthening and development response to the impact of the Syria crisis on Jordan.

Aside from these newly created entities the GoJ utilises existing structures as part of the refugee response. In relation to work rights the most relevant institutions are the Ministry of Labour as well as the judicial system, primarily the Magistrates Court.

## 5.2 Ministry of Labour

The role of the MoL is to regulate all labour issues in the country. The Ministry is composed of six central directorates in addition to 22 subsidiary directorates in governorates and districts. The Ministry has two branch institutions, the Vocational Training Institution and the Social Security Corporation. With regard to Syrian refugees the Ministry's most important roles relate to setting the quota system for migrant labour, granting work permits as well as overseeing the full

implementation of the Labour Law. The Ministry is also given the statutory functions of organizing the labour market, occupational guidance and formulation of the instructions necessary for providing work and employment opportunities to Jordanian citizens within and outside the Kingdom in collaboration with the concerned parties<sup>59</sup>.

### I. Work permits

The MoL is responsible for the provision of work permits to non-Jordanian employees. The function of granting work permits is generally delegated to Labour Directorates situated throughout the country. The Ministry has delegated the task for issuing freelance agricultural sector work permits to various agricultural cooperatives throughout the country and the task of issuing freelance work permits to the construction sector to the GFJTU.

### II. Work rights

Under the Labour Law the Ministry is responsible for undertaking 'inspection tasks' in application of the provisions of this law.<sup>60</sup> Inspectors, who are given the powers of judicial police, are responsible for ensuring respect for the law and conducting regular inspections of work places.<sup>61</sup> If inspectors notice a violation of the labour law, they have the right to ask the employer to remedy the violation within a maximum period of seven days. In the event of default the establishment can be closed down.<sup>62</sup>

An employer can be fined between 50 and 100 JD for every month they employ someone in breach of the law.<sup>63</sup> This includes employing a non-Jordanian without a valid permit for that sector and also employing a non-Jordanian in a closed sector. Any employee who violates Article 12 can be deported by the Minister.<sup>64</sup>

### III. Labour disputes

Institutions established as mechanisms for resolving various types of labour disputes exist under the Labour Law. These include the MoL labour inspectors, the Wages Authority and, for collective disputes, a Conciliatory Representative appointed by the Minister for Labour. All other disputes are under the jurisdiction of the judiciary, usually the Magistrates Court.

The Wages Authority is established under the law to resolve disputes related to unpaid wages (including partially paid wages, overtime and other pay disputes.)<sup>65</sup> The Wages Authority is intended for those still in employment as well as those who have left their workplace within 6 months.<sup>66</sup> In all other cases, employees must take their wage disputes to the courts.<sup>67</sup>

Procedures before the Wages Authority are designed to be informal whilst retaining some of the powers of courts, namely (1) the power to summon witnesses and (2) the

power to compel parties to provide relevant documents and evidence.<sup>68</sup> Employees should submit their complaints to the Wages Authority in writing. Within ten days of being notified of the complaint, employers should respond to the allegations in writing with documents and evidence either showing that the wages have been paid or that the employee is not entitled to the wages. Before holding a hearing to consider the complaint, the Wages Authority may request any documents or evidence from either party relevant to help it resolve the dispute.<sup>69</sup> Both parties are required to be present at the hearing. If not, the Wages Authority may find against the absent party.<sup>70</sup>

In resolving the dispute, the Wages Authority may require the employer to pay the unpaid wages and may also require the employer to pay compensation unless the non-payment is the result of a bona fide mistake or the employee has been partly responsible.<sup>71</sup> Decisions of the Wages Authority shall be enforced by government departments as if they were court decisions.<sup>72</sup>

Parties who are not satisfied with a decision of Wages Authority may appeal the decision to Court, usually the Magistrates Court. There are 14 Magistrates in Amman. Most Jordanian cities have two or three Magistrates. Both civil and criminal cases before the Magistrate's Court are heard by a single judge. The Court of First Instance hears all civil cases not heard in the Magistrate's Courts, including all matters where alleged damages exceed JD 1000



## 06 Refugee Experiences with the Work Rights Regime

In the course of the field research conducted for the report, refugees described their experiences and perceptions of the work rights regime in Jordan. Whilst many refugees were able to obtain work permits, others had not and continued to work informally. Lack of information, difficult working conditions, inability to take action on work disputes and challenges for women trying to enter the labour market were highlighted as key challenges.

### 6.1 Practical significance of a work permit

Under Jordanian Labour Law no distinction is drawn between those with or without work permits in terms of workplace rights and entitlements. Both categories of persons are entitled to fair work conditions and payment for work performed even if the employee does not have a work permit. This is because the Labour Law essentially governs the employer/employee relationship and any disputes arising from that relationship. Whether or not a person has a valid government-issued work permit is a separate issue governing the relationship between the employee and the government. In any event, issuance of the work permit is the responsibility of the employer.

Participants in the FGDs and KIs revealed a wide range of views, amongst both the Syrian refugee community and key informants, as to the importance of having a work permit. Some key informants said having a permit was vital from a protection perspective, while others doubted its importance. Work permits are often used to ease the process of leaving camps and obtaining exit and return permits to leave and return to Jordan. In some cases, refugees reported that having a work permit is of no benefit even if they are employed in a sector where permits are easily issued. Others expressed their daily fear of going to work without a work permit. The general view from informants is that having a work permit, if it is valid for the sector that one is working in, is useful.

The fear expressed by some refugees was that without a permit an employer could pay less than the minimum wage, or not pay at all, demand excessive working hours and threaten to call the police or MoL inspectors if the employee tried to complain. Persons working in restricted sectors face particular difficulties. They, and their employers, know that they cannot obtain a work permit for the sector they work in. The threat of being caught working illegally is often used as a means of coercing the worker into accepting illegal conditions such as very long working hours or working below the minimum wage.

As few as 17% of non-Jordanians are estimated to hold a work permit that matches their actual employer and occupation.<sup>73</sup> Up until 2016 and the initiation of the work permit scheme only 3,000 migrant work permits on average were

distributed annually to Syrians, out of a population of over 353,000 foreign workers. Whilst that situation has improved since the liberalisation of the work permit restrictions in 2016, a 2017 International Labour Organisation (ILO) study suggests that as few as 13% of the Syrian working-age population has a work permit.<sup>74</sup> In addition, an estimated 65,000 Syrians working informally are employed in closed sectors.<sup>75</sup> The MoL Director of Employment in Ramtha estimated that 90% of all agricultural work permits are issued to people who do not work in the sector.<sup>76</sup> In the same meeting he reported what he saw as a drop in recent requests for renewals of permits. He stated that because the GoJ was no longer deporting people back to Syria, there was less of a reason to have one.

During the FGDs participants reported a number of important reasons to possess a work permit, even outside the sector of employment:

- Avoiding problems with MoL inspectors or other authorities when asked for evidence one has a work permit.
- Avoiding problems with police who frequently conduct random work permits checks, even when obviously not in a place of work.
- It was now relatively cheap and easy to get a permit, at least in agriculture.
- Sometimes employers insist on a work permit, even if it is in a different sector.
- It adds to the documentation a family has to prove their legal status within Jordan.
- There is a perception that it is necessary if a refugee wants to leave Jordan for religious reasons (to Saudi Arabia for Hajj or Umrah). The reality is that it is part of the evidence submitted to the MoI for an exit/entry application but is not absolutely required.

#### Case study

In a FGD in Irbid one Syrian refugee explained that he was once arrested on the street by the police as he had no work permit and was threatened with deportation. For him, having a work permit is a way of avoiding this situation happening again.

Irbid, 6th March, 2018

Despite the list of reasons given as to why having a permit is useful, and agreement on how easy it is to obtain a permit in agriculture or construction, 26 out of the 33 participants of the FGDs did not have one. Two people had an agricultural work permit, despite not working or working in that sector, as a perceived means of security against harassment from officials and because it is cheap and easy to obtain. Some of the FGD participants said that as the GoJ is no longer deporting people for not having a permit they were less concerned about having one.

The range of views as to the importance of having a work permit depends on a variety of factors including the attitude of individual employers, place of residence and place of work. In rural areas such as Mafraq and Ramtha refugees were less afraid of state authorities according to the FGD than in urban areas such as Amman and Irbid.<sup>77</sup>

Despite differing perceptions of the importance of having a work permit, FGDs highlighted a number of perceived benefits of possessing a work permit as well as risks without such a permit.<sup>78</sup>

## 6.2. Respect for work rights

FGD participants had a limited view of the scope of labour law protection to their work. For many the issue of work rights was academic. They had a general sense of their rights but no confidence that they could insist on those rights in the workplace.

Syrians who work as labourers, and particularly agricultural and construction workers, expected a daily wage (paid daily) for a set number of hours, usually from 7am until 4pm. They did not usually work on Fridays but, if they did, they would expect to be paid the same rate. In other sectors participants of FGDs were more likely to be paid a weekly or a monthly wage at the end of each week/month with set daily working hours and Friday a day off. Friday was considered by participants as an unpaid day off rather than a paid non-working day.

Despite this, during discussions in FGDs participants showed awareness of more general rights such as the right to paid holidays, sick leave and maternity leave. Nevertheless, they had no expectation that they would benefit from these rights and no knowledge of how they could request these rights from an employer.

**25%** of Syrians are reported to receive a below minimum wage

**30%** working more than 60 hours a week

**90%** working more than 80 hours a week

**21%** working 7 days a week

Whilst Jordanian workers also suffer from generally poor working conditions, available data indicates that working conditions are worse for Syrians. Twenty five percent of Syrians are reported to receive a below minimum wage (13% for Jordanians) whilst 30% of Syrians have reported working more than 60 hours a week (14% for Jordanians). Nineteen percent of Syrian refugees reported working more than 80 hours a week. Twenty one percent of Syrians reported working seven days a week (16% for Jordanians).<sup>79</sup>

Jordan has in place a system of workplace inspectors employed by the Ministry of Labour who are responsible for inspecting workplaces to ensure that employees have permits and that working conditions meet the minimum standards under Jordanian labour law. In practice Syrian workers reported that inspectors were generally looking to catch workers without permits. They did not inspect workplace conditions or take any action against employers for poor working conditions. Nor are the fines for violations high. As inspectors are recruited from the local community, they are seen to be biased towards employers on account of tribal or community affiliations. They are not seen to be independent or effective. In addition, there are too few inspectors to be able to adequately police working conditions throughout the country.

### Case study

In an FGD with 3 Syrian employers all of them were able to explain the basic rights that workers have under Jordanian Labour Law including the right to sick leave, paid holidays etc. However they have no intention of granting their employees these rights as they said they themselves work in their businesses and they do not take paid holidays or grant themselves these benefits. They explained that business conditions are tough and that these rights are not normally respected in their sectors.

Ramtha, 7th March, 2018

In discussions as to whether FGD participants felt they are treated differently compared to Jordanian co-workers the general view was that their co-workers, regardless of nationality have, more or less, the same conditions but that Jordanians are less vulnerable to threats against them.

### Case study

Hussein works in a restaurant in Amman. He has an agricultural work permit despite working in a restaurant. He reported that a Jordanian colleague had taken a day off during the working week recently and the employer docked him 2 days of pay. He says the same would happen to any employee. Hussein reports that he requested paid holidays from his employer some time ago but the employer refused to give him any.

Amman FGD, 14th March, 2018

It should be noted that no Syrians working in QIZs or the manufacturing sector were targeted in FGDs and KIIs. It is likely that the situation for these workers in terms of awareness of work rights, and respect for them, is specific.

Whilst conditions in formal employment can be problematic, refugees have noted even greater problems with the informal sector including maltreatment, instability and the risk of being underpaid or not paid at all.<sup>80</sup>

## 6.3 Resolution of disputes



The major complaint by refugees was their inability to resolve workplace disputes. Refugees noted that many Jordanian co-workers faced the same issue. The most common requests for counselling and legal assistance to the ICLA programme included the following:

- Non-payment/partial payment of wages
- Termination of contract (unfair dismissal)
- Breach of contract
- Social security
- Insurance
- Injury at work

Refugee responses to workplace disputes or complaints varied, but were invariably timid. Refugees would sometimes seek to discuss the complaint with their employer, but would also seek information about their rights and entitlements through a range of sources including friends, social media, radio, television, the Ministry of Labour website or UNHCR, or would attend information sessions conducted by I/NGOs, such as NRC.<sup>81</sup> If the refugee wanted further individual advice they would attend a legal counselling session to better understand their options, including facilitated negotiation by a lawyer with the employer.

Tamkeen advise that negotiation generally involves telephone contact between the lawyer and employer to clarify the dispute with an attempt to agree on a settlement. They will often also facilitate face to face negotiations. If this fails then a case may be filed with the Magistrates Court. According to Tamkeen and JCLA lawyers, this is the option of last resort as it can take years before any decision is made.<sup>82</sup> Tamkeen reported that no cases have been taken to the Wages Authority which they regard as dysfunctional.

ICLA staff report that beneficiaries overwhelmingly decline to pursue negotiation or further legal action even when they have a very good case and the amounts owed are substantial. In Irbid the ICLA team noted that only 5% of beneficia-

ries with work rights disputes agree to negotiation and legal action on account of the risks of challenging an employer. From KIIs with the ICLA team and Tamkeen it would appear that these cases mainly involved refugees who had already left the abusive employer and found a new job. Having a new job, or at least not being in the old one, provides some element of protection to the employee.

In the two counselling sessions attended during field research both Syrian beneficiaries raised issues relating to non-payment of wages by their employers in the construction sector. The amounts of money being claimed were 3,000JD and 1,200JD respectively. In neither case did the refugees wish to take any action. As these two isolated cases demonstrate, the financial loss to beneficiaries can be significant. For refugees in financially precarious situations it can be devastating. During research conducted by Tamkeen in 2013 on agricultural workers, 59% of persons surveyed expressed difficulties in receiving their salary on time.<sup>83</sup>

The experience of the vast majority of Syrian refugees in case of employment disputes is to suffer in silence and not complain. Syrian refugees are vulnerable, scared of adverse consequences and are fearful of losing their job. Refugees feel that employers are immune from their action because refugees cannot escalate issues to authorities.<sup>84</sup> The inability to access an effective remedy for such disputes weakens refugee participation in the labour market.<sup>85</sup> At the heart of the issue is the culture of lack of respect for work rights for unskilled workers and labourers matched by the absence of effective enforcement mechanisms.

## 6.4 Protection risks at work

In addition to the inability to have their work rights respected, FGD participants highlighted a number of other protection risks when voicing their grievances.

The fear most commonly expressed in FGDs, and backed up in KIIs, is that any attempt with an employer to raise a rights-based issue can negatively impact the employee or employees. If an employer hears that an employee has raised a complaint with anyone, and particularly a lawyer, the reaction can include anything from firing the employee, blacklisting the employee with other employers in the area and targeting family members or other Syrians in the work place. Fifty eight percent of beneficiaries surveyed for an IRC report felt unsafe in their jobs for various reasons including workplace harassment and discrimination, harsh labour at low wages and general uncertainty over the lack of a work permit and their consequent legal safety.<sup>86</sup>

The employer sponsorship (kafala) system for sectors outside of agriculture and construction can create a situation of vulnerability for refugees who are dependent upon their employer for the continuation of their work permit, even if they are in conflict.<sup>87</sup> If an employee leaves their job before

the expiry of the 12 month permit, they can apply to have the permit cancelled and apply for a new permit with a new employer, which is a complex and expensive procedure. Many employees seek to maintain good relations with an ex-employer for the continuation of their sponsorship even if they no longer meet the permit conditions through ongoing employment. Employers may often extort employees through requests for payment of commissions or additional fees in order to facilitate the renewal of the permit. The requirement that a former employer provide a clearance before an employee can be sponsored by a new employer creates a power imbalance and places employees in a difficult situation, especially if they have left employment on poor terms. It prevents them from raising issues about their previous employer. Not only are they inhibited in raising complaints during the employment relationship, but also at the end of the relationship for fear of being denied a clearance by their employer. If they are additionally asked to sign an undertaking that they have no complaints against their previous employer, their credibility is undermined if they later file a complaint.

The worst-case scenario painted by FGD participants was the threat that the employer, in response to a worker demanding their rights, would fabricate a story that the employee was working illegally, had stolen from him or that he or she had insulted the royal family. In such cases the employee could be detained by the police and forcibly relocated to the camps.<sup>88</sup> Although those with work permits are at risk in this situation those without a work permit are even more vulnerable. Refugees report deep-seated fears of the police, not necessarily because of police behaviour but because of police powers to detain and deport.<sup>89</sup>

Conversely, some protection risks can result from the inability of Syrian refugees to work. Surveys have noted depression and shame amongst refugees unable to work to support their families. Such stressors can increase family tensions and the incidence of protection issues at home including domestic violence.<sup>90</sup>

### Case study

In a FGD in Ramtha a woman reported that her husband was contracted by a Jordanian to construct his house. He did not have a work permit. At the completion of work 100JD was outstanding but the employer refused to pay it. Her husband filed a complaint with a local lawyer but then the employer, upon hearing of the complaint, alleged that he had stolen tools from them and in the end he was forced to pay a fine and spent 10 days in prison.

7th March, 2018

The following part of the report addresses some of these structural and legal challenges with recommendations for policy change that would promote greater compliance with the work rights regime whilst protecting work rights..



A young man digging holes for trees to be planted in, as part the GIZ funded 'Cash for Work' project at King Talal Dam in Jerash, Jordan.

Refugee experiences with the work permit regime in Jordan are mixed. Whilst most are grateful for the opportunity to work legally in certain restricted sectors and appreciate the ease of applying for permits in these sectors, many other refugees continue to work without a permit. Most refugees highlighted the difficulties of having their work rights respected by employers in practice.

### 7.1 Promoting formalisation of the refugee labour market

With an estimated 44% of the labour force in Jordan involved in the informal, unregulated economy<sup>91</sup>, there is a strong government incentive to ensure that employers formalise their workforces.<sup>92</sup>

In surveys of Syrian refugees conducted by the WANA Institute in August 2017, over 12 months after the work permit related policy changes, 77% of respondents were working without permits, whilst the other 23% had work permits.<sup>93</sup> Analysts have attributed this level of informality to bureaucratic hurdles, excessive costs for formalising businesses and poor enforcement of business regulations, including the low risk of consequences.<sup>94</sup> The fact that wages in the informal sector can be higher than low wages for Syrians working in the open sectors has been identified as a further disincentive to apply for work permits.<sup>95</sup>

Whilst an informal employment may benefit people who may not be eligible for formal employment, the overall result is found to be negative for employers, employees and for the state. High levels of informality are clear warning signs of market dysfunction where perceived benefits of informality outweigh the incentive for formalization. Informal employees are at a disadvantage and feel they are not able to access legal protections with regards to decent working conditions. In addition, an informal economy also deprives the state of tax revenue which presents challenges to economic planning and growth.<sup>96</sup>

The World Bank highlights the fact that policies which promote formal employment “consist of lowering the costs and raising the benefits associated with formalization. These policies will normally fall into four groups: (a) tax policy, including social security contributions, (b) labour regulations, (c) broader business regulations, and (d) institutional reforms, including sanctions for non-compliance.”<sup>97</sup> For Jordan, supporting the formalisation of the refugee labour market would involve similar elements, namely:

- Facilitate, incentivize, and ensure businesses that employ refugees are properly registered
- Monitor and regulate businesses to ensure they comply with the labour law and social security obligations
- Facilitate and ensure refugees have authorisation to work
- Penalise businesses for non-compliance with their legal requirements

## 07 Challenges and Obstacles

### 7.1.1 Enforcing compliance with business and employee registration

During FGDs it was generally agreed that having a work permit in the relevant sector was positive. FGD participants from the agriculture or construction sectors generally had valid work permits as they are relatively easy to obtain. The main reasons given by participants in other sectors for the lack of a permit included the following:

- The employer is a small business and is not properly registered as a business and therefore does not have the required paperwork to have work permits issued. The main reasons cited as to why a business would not be properly registered were to avoid paying tax.
- Whilst the business is properly registered, the employer does not register his or her employees with the Social Security Directorate in order to avoid paying social security contributions.
- The sector in which the refugee works is a closed sector for Syrian refugees or because of the quota system which limits the percentage of non-Jordanian workers in certain sectors, the employer is unable to hire them legally.
- The employer could legally support employees to get a permit but because of the perceived costs and effort involved, they refuse. Some employers are not concerned about labour inspectors conducting spot-checks on their business.

These issues generally relate to structural issues such as the legal framework for obtaining a commercial registration certificate, the closed professions, the quota system and the system for inspection and enforcement.

It is in the government's interest to encourage Jordanian businesses to comply with the law. Reduced or streamlined reporting processes may provide an incentive for some businesses to register. Anecdotal evidence suggests that current penalties for non-compliance with the law are rarely enforced. In any event they are less than the costs of business registration, paying tax and registering employees for social security. Businesses that do not register and meet their legal obligations should be penalised at a level which provides a strong incentive to comply with legal requirements.

### Obstacles for the issuance of work permits by employers

#### 7.1.2 Simplifying the Social Security contribution scheme for small businesses

There was near universal agreement amongst all persons interviewed for the report that the system of social security contributions is overly complicated, too high and almost impossible for most employees and employers to understand. It acts as a major disincentive for employers to register their employees with the Social Security Directorate which consequently deprives employees of the benefits to which they are entitled. Employers see social security contributions as an additional and complex business cost and avoid it where they can. In order to address this issue it is recommended that the Government:

- Reduce the existing high levels of social security contributions for small businesses. Whilst this would reduce the amount of funding available for the Social Security Directorate to pay benefits, it would be offset by higher levels of employee registration for social security by business owners.
- Simplify processes for businesses paying into social security and meeting formal requirements.
- Issue fines against businesses who do not register their employees for social security.

Such measures would improve the credibility of the social security system and improve compliance.

#### 7.1.3 Streamlining processes for accessing work for refugees

Despite efforts to simplify the work permit process for Syrian refugees, it remains bureaucratic in sectors outside the agriculture and construction sectors. Refugees must be sponsored by an employer and face certain limitations and restrictions in changing employment. This may be appropriate as a means of regulating the migrant labour workforce in Jordan but may not be necessary or appropriate for the refugee workforce.

Whilst Jordan has not signed the Refugee Convention, it has been extraordinarily generous to refugees over the decades. It has accommodated a disproportionately high number of refugees, which places a considerable burden on Jordan's infrastructure and economy. However in contrast to migrants, refugees cannot return to their home countries from which they have fled conflict and persecution. They must support themselves financially in host countries in order to survive. Host countries have an obligation to provide them with opportunities to support themselves and earn a livelihood in order to meet their basic human rights obligations. Refugees in Jordan must apply for work permits in order to work.

The difficulties for many refugees in obtaining work permits results in an underground, informal labour force. Permitting refugees to work on the basis of their legal residency permits or MOI cards, without insisting on work permits, would help reduce the informal labour market. Refugees in Jordan are particularly vulnerable. They cannot return home, are often forced to work without work permits and with poor conditions in order to survive, have little knowledge of their rights and are fearful of complaining about their employers.

Whilst employers would need to report numbers of refugee employees to the Ministry of Labour and register them with the Social Security Directorate, they would not be formally sponsored thus reducing the paperwork and the need for employer clearances and allowing them to move employers easily to avoid exploitative working conditions. They would be limited to working in the open sectors and other sectors approved by the MOL as available for refugees.

Although the Jordanian government has eased some work permit restrictions for Syrian refugees, this recommendation applies equally to other refugees in Jordan.

### 7.2 Reviewing access to the closed sectors and promoting an inclusive workforce

#### 7.2.1 Identifying labour market needs in the closed sectors

The Government of Jordan have set themselves an ambitious target with the creation of 200,000 work opportunities for Syrian refugees in three years. As of March 2019, 135,500 permits have been issued, mainly in the agricultural and construction sectors. Many of those permits are for renewals so do not reflect the actual number of legally employed Syrians.

The issuance of 200,000 permits to 744,000 registered Syrian refugees would equate to permits for 26% of the Syrian refugee population. However when the demographics are taken into account, it is likely that there are insufficient refugees of working age willing and able to work to meet this target. When the large number of underage refugees are discounted, as well as men and women no longer of working age and disabled persons unable to work, the figure of eligible refugees reduces significantly. The figure would be further reduced taking account of the large number of female refugees who are either unwilling or unable to work on account of family or childcare commitments. The GoJ acknowledges that the original target cannot be reached and has estimated that of the 135,500 permits that have been issued, only 40-42,000 are currently active.<sup>98</sup>

Many Syrians report that they cannot afford to work at the minimum wage (JOD150 per month) in workplaces such as

factories which involve a long commute. Whilst this may be more sustainable for single migrant workers or workers with families overseas whose monthly expenses in Jordan are low, it becomes unsustainable for Syrian refugees with large families and high expenses in Jordan, particularly rent.<sup>99</sup>

It must also be stressed that the issuance of a work permit in the agricultural and construction sectors is no guarantee of full-time employment. Instead the permits provide the refugees the opportunity of finding work within their sector. They may work on an ad hoc or temporary basis considering the seasonal nature of the work. Work permits in these categories are issued to anyone eligible, meaning that the number of permits issued most likely well exceeds the demand for labour within the sector. The government has a strong interest in facilitating the issuance of work permits in line with their international commitment. Refugees interviewed in the course of the report indicated that they were sometimes pressured into applying for agricultural permits by local authorities keen to meet targets for the issuance of permits.

Whilst the flexibility in issuance of these permits is commendable and the permits themselves are highly valued by Syrian refugees, the permits do not translate into guarantees of a minimum wage or sustainable employment for Syrian refugees.

As outlined earlier, since 2016 the GoJ has made significant efforts to ease the process for Syrians to obtain work permits, particularly in the agriculture and construction sectors. Nevertheless throughout this report the quota system, with respect to non-Jordanian labour, as well as the sectors closed to non-Jordanian workers are consistently mentioned as obstacles for Syrians to access employment and obtain work permits. Under the Refugee Convention, such limitations on work rights for refugees should be removed once refugees have been legally resident in the country for three years.

Despite progress from the GoJ in improving the ease with which Syrians can access work permits in some sectors the lack of access to other, often more skilled, sectors is hampering access for Syrians. The rationale for preserving jobs for Jordanians in closed sectors is clear. Unemployment remains high at 18% percent and Jordan has recently suffered massive protests over the costs of living. However removing quota limitations and allowing Syrians to apply for jobs in closed sectors may not have a major impact on job opportunities for Jordanians, particularly as the injection of new skills and expertise can grow the economy. In practice many Syrians already work in closed professions whilst holding a permit in an open profession. They may, for example, work as a skilled trade professional such as plumber or tiler, whilst technically being employed as a construction worker/labourer.

As only 15% of Syrians are estimated to have completed secondary education with only 4% having a university



Ibrahim grows different kinds of plants that his family needs every day, such as: parsley, onion, Rocca, spinach, radish, and peas.

degree<sup>100</sup> it seems unlikely that opening up further sectors of the labour market for Syrian refugees would significantly reduce professional jobs for Jordanian.

The recent directive by the Ministry of Labour to establish a committee to recommend the opening of closed and technical professions to Syrian nationals is a significant step forwards. Article 10 of the Comprehensive Instructions for Employment of Syrian Workers states that:

*The Minister may open some closed professions and technical professions for non-Jordanian Syrian nationality employees who are permitted to work in the different economic sectors according to the labour market input and the recommendations of relevant parties in a way that would not affect job opportunities for Jordanians, as per the recommendations of the employment committee and every case shall be considered separately through the relevant committee in the Ministry.*

The policy change provides a balance between ensuring adequate skilled opportunities for Jordanians, whilst creating additional employment opportunities for Syrian refugees. It perhaps also reflects the skills that Syrian workers may contribute to the Jordanian labour market. Over the next 6-12 months it will be important to both support and monitor the work of the committee ensuring that the committee's decision are based on strong labour market evidence and there are detailed implementation plans associated with the recommendations. This evidence could include a comprehensive survey of the labour market in Jordan for both refugees and Jordanian nationals in order to assess areas of labour market need, identify opportunities and assess the working conditions in various sectors with recommendations for improvements or corrective action.

### Case study

Mohamed, from Irbid, reported that he worked in a garage which is a closed sector for Syrians. His employer asked him to obtain an agricultural work permit. When an inspector came to inspect the business and asked if Mohamed had a work permit the employer said that he was a farm worker from his farm and that he had come to assist just on that day.

FGD, Irbid, 6th March, 2018

### 7.2.2 A more inclusive workforce

The existing Syrian refugee workforce is dominated by working age men. Women make up only 4% of the total number of work permits issued.<sup>101</sup> Numbers of youth, older persons of working age and disabled persons in the workforce are estimated to be low.

An assessment of workforce participation by Syrian and Jor-

danian women conducted by UN Women and the REACH Initiative in 2016, found that a majority of Syrian women residing in Jordan are not employed, but would work if they had the opportunity.<sup>102</sup> The EU has estimated unemployment of female Syrian refugees in Jordan at 83.3%, with an economic activity rate of only 5.95%. Conversely, 17% of Syrian refugee women are estimated to have been working in Syria previously.<sup>103</sup> Working women have been found to be earning up to 40% less than the male counterparts.<sup>104</sup>

During FGDs and KIs the general view was that Syrian women faced no legal restrictions on accessing work permits or work opportunities but would prefer to work from home due to responsibilities such as child minding and on account of traditional views relating to women working away from the home. This is reinforced by similar findings from other surveys.<sup>105</sup> Key impediments to greater participation in the workforce have been summarised as (1) cultural barriers prohibiting women from working in certain roles or in public spaces with men and (2) the burden of non-income generating household work, including child care.<sup>106</sup> Most female participants reported a preference to be supported with a home-based-business. The exception to this were some women in Mafraq who said that they, occasionally, work in agriculture. No female FGD participant held a work permit.

Article 13 of the Labour Law obliges employers with more than 50 employees and whose type of work permits employment of disabled workers to ensure that 2% of the workforce comprises of persons who are disabled.

In order to ensure a fair and accessible labour market, the Government must take further steps to promote inclusivity amongst otherwise marginalised and under-represented refugee groups, including women, youth, older persons of working age and disabled persons.<sup>107</sup>

### 7.3 Poor working conditions

Working conditions in Jordan are often poor for both Syrians and Jordanians. Key problems include non or partial payment of wages, delayed or irregular payment, lack of payment of overtime, excessive working hours and unsafe conditions. Whilst Jordanian workers are more likely to be able to complain and take action, both Jordanians and Syrians often tolerate poor conditions with little chance of employer action or improvement.

In FGDs and KIs the feedback was that the inspection system is broken, particularly in rural areas such as Ramtha and Mafraq. The general view expressed was that inspectors are only seeking to catch workers without permits in order to elicit bribes from the workers or employers. The view is that they never inspect working conditions or implement any other aspect of the law. The Ministry of Labour has previously confirmed to Tamkeen that no labour inspections are conducted in the agricultural sector.<sup>108</sup>

Another function the MoL has relates to providing information to employees and employers with respect to the law and work rights. Although MoL representatives said that they conduct this work from time to time there is no evidence of any concerted approach to information dissemination and awareness raising being taken by the Ministry.

The GFJTU reports that they established a labour committee in Irbid in January 2018 to represent workers (and presumably the union) and liaise with construction employers on issues including disputes. They plan on rolling this out to other areas of the country.

Whilst the capacity of the GoJ to force employers to comply with the Labour Law may be limited by available resources, they must make further efforts to raise awareness on work rights and encourage the development of a culture of respect for work rights in society. This can be as simple as the development of a coordinated campaign targeting employers, employer and employee associations, cooperatives and employees through national and social media, webpages and other accessible sources of information with a confidential complaints line. Regular consultation should take place with organisations representing workers rights, including unions, specialist agencies such as Tamkeen as well as with employer associations with the power to influence members to comply with the Labour Law. Sectors with the highest number of workplace infringements could be singled out for particular attention.

ILO notes the importance of an effective labour inspectorate under which labour inspectors examine how national labour standards are applied in the workplace. Inspectors can then advise both workers and employers how to improve compliance with national labour standards. Whilst labour inspection systems are often underfunded, a robust system can enhance productivity by reducing costly workplace issues such as disputes, accidents or absenteeism.<sup>109</sup>

The GoJ should increase the number of inspectors and ensure greater effectiveness by directing them to report on working conditions and not just the existence of workers without permits. If it is cost prohibitive to employ additional inspectors they should at least ensure a more structured and systematised system of working to ensure that they are targeting businesses, or business sectors known to have poor conditions and take action against employers to follow up. Measures by the Jordanian government and international community to promote work opportunities for Syrian refugees in Jordan will remain of limited effect whilst refugees face unsafe, exploitative or poor working conditions. The donor and international community should provide funding to the Ministry of Labour to increase their capacity to conduct effective workplace inspections with follow-up.

In order to ensure the independence of inspectors, they should either be recruited from outside their local area or be subject to monitoring to ensure they are not influenced

by their local relationships or affiliations. It would be useful for Jordan to review the practices of other countries with effective systems of workplace inspectors.

This approach would allow the government to promote respect for work rights for all, collect data on the most common types of infringements, engage constructively with employer and employee associations and develop targeted strategies for resolution of key workplace issues.

The requirement of a clearance from a former employer before transferring to a future employer is a practice that not only seems unnecessary but is open to abuse by employers. Self-evidently this will prevent former staff members from raising disputes about work conditions even if this is the reason for leaving the employment. Former employers may also condition the release on an undertaking not to raise any complaints in the future, for payment of money or for any other reason. Whilst reference checks are a common feature of recruitment processes, a reference check from a former employer is not mandatory. The requirement of clearance from a former employer should be abolished. Instead it could be replaced by a requirement that the employee obtain a non-conviction notice from the police in advance of commencing with a new employer.

#### 7.4. Lack of clarity about Social Security entitlements

Another problematic working condition highlighted by beneficiaries was social security entitlements. Most participants of FGDs reported that they are not and have never been registered for social security. With one limited exception (see case study below) not one participant in any of the FGDs held reported receiving any benefit if they had been registered for social security. During research conducted in 2013, Tamkeen noted that 98.7% of agricultural workers surveyed were not covered by social security, despite a formal obligation on employers to do so. The 2014 Social Security Law later excluded agricultural workers from social security.<sup>110</sup>

There was considerable confusion amongst Syrian workers and indeed ICLA staff, Tamkeen and other key informants both on the procedures followed by the Social Security Corporation and the benefits of being registered with them for non-Jordanians. In other FGDs participants said that they had been told by their employers that if they were registered for social security the employer would deduct their (14.25%) contribution from their salary. In research conducted with Syrian refugees by Colombia University there was uncertainty about the *'long-term return of investment from their social security contributions, especially with regards to the portability of benefits. This leads them to perceive their contributions to the social security system as a mere increase in the opportunity cost of work formalisation, thus reducing refugee's willingness to formalise their work by applying for a work permit.'*<sup>111</sup>

#### Case study

Mohamed in Ramtha reported that he worked for an INGO as part of a cash-for-work scheme and at the end of the contract he applied to social security to get his contribution back. They gave him a check but as he has no passport nowhere in the country will cash it.

FGD, Ramtha, 7th March 2018

In a report produced by Tamkeen relating to the textile industry, employers highlighted the prohibitive cost of Social Security at the time of issuance of work permits.<sup>112</sup> A related internal report on the restaurant sector noted that *"the current Social Security law which obliges [employers] to register all workers...constitutes a significant financial burden in light of the decline in demand in the market."*

ICLA staff were aware of cases where after a work permit was issued the employer and employee went straight back to the Social Security Corporation to cancel the registration to avoid costs. In other cases, employers report a lower wage in order to reduce social security payments on behalf of workers. Another area of confusion is the lack of linkages between the work permit and social security system. This means that Syrians may pay social security without having a work permit. However in order to later reclaim social security they must have a permit. Workers can be fined for the period of time they did not have a permit and cannot collect their social security payments without paying the fine of up to JD520.

Construction workers reported that as their salary varies from month to month (in winter many construction sites do not work due to the rain) it was difficult to be tied into a social security system with monthly contributions. This has now been addressed by the Jordanian government whereby construction workers, who are now 'self-employed workers', pay an annual insurance premium of JD45. This covers health insurance for work injuries and provides compensation for death caused by work accidents. In practice even JD45 per year is expensive for construction workers and many workers chose not to pay, thus depriving them of protection in the case of accident. However agricultural workers remain formally excluded from the benefits of social security. Others reported social security only being of use if you left the country in which case it could be reclaimed as a saving. Another participant reported that he paid social security for more than one year but when he left the job and attempted to claim it he was informed that he had no right to claim any benefit but could receive a pension when he retired.

In November 2018 UNHCR, ILO and the GoJ published Frequently Asked Questions with information on the circumstances in which social security payments can be paid out.<sup>113</sup>

According to the internal instructions of the Social Security Corporation workers can have their social security payments paid out at three stages:

- Upon completion of the first work contract, with supporting documents
- After 24 months registration with the Social Security Department
- At the age of retirement under Jordanian law or upon leaving the country.

It appears that most workers are not aware of the possibility of having social security paid out to them at any stage. The benefits of reclaiming social security payments upon departure from Jordan may be relevant in the future for Syrian workers returning to Syria. ILO encourages member states to take steps to facilitate the portability of work-related entitlements, including social security benefits for refugees between countries of origin, transit and destination.<sup>114</sup>

However there are additional conditions and complications for any reimbursement of social security payments. Firstly, the periods of employment and social security contributions must match in accordance with employment contracts and work permits. As many Syrians have been employed either formally or informally with different employers over different periods of time, this may be difficult for them. Secondly, it is likely that many employers have under reported, underpaid or not paid social security for workers. Thirdly, Syrians working in the construction or agricultural sectors, constituting the largest sectors of employment for Syrians, are outside the social security system, so have no payments to claim. Fourthly, Syrian workers may be reluctant to ask the Social Security Department about their entitlements for fear of drawing attention to their status, including for periods of time they have been working without a permit. They may be fined if the periods of their work permit and social security payments do not match. Finally, many Syrian workers may find the procedures for reclaiming benefits too complex.

Whilst Social Security is a costly and complex entitlement, it provides key protection for workers.<sup>115</sup> As per the Labour Law it should be regarded as a fundamental entitlement and guarantee against injury or loss of work. Information should be provided by the government to non-Jordanians on their social security entitlements, what it covers in practice and the circumstances in which Social Security can be claimed or paid out. Employers should be reminded of their obligation to contribute which cannot be passed to the employee.

Syrian workers should be advised of their right to reclaim their social security payments at the three stages allowed by Jordanian law. Procedures for reclaiming entitlements should be simple, fast and clear. Additionally, for Syrians intending to depart Jordan, there should be a discrete means to check whether they have any outstanding entitlements, without fear of adverse consequences, such as fines

for periods of work without a permit. The social security and permit scheme should be linked so that social security payments should only be made for the time period of the work permit. Syrians should also have a means of recourse against employers who have under reported or underpaid social security to which they may be entitled. Employers should be penalised for incorrect payment of social security on behalf of workers.

#### 7.5 Lack of written contracts and inadequate contract templates

No participant in any of the FGDs had a written work contract. The only exception to this were participants who had participated in NGO cash-for-work schemes where written contracts are issued. Under the law contracts can be written or oral. The majority of Syrian refugees are estimated to be employed with no contract (49%) or through an oral agreement (25%).<sup>116</sup> Whilst there is no legal obligation on employers to provide a written contract under the Labour Law it is preferable for both employers and employees.

It is no surprise that in the agriculture, construction, and the services sectors businesses typically operate without a written contract. However, ICLA staff and Tamkeen report that, in the event of a dispute, where pay rates and conditions need to be proved, the only option is to seek witnesses from the workplace to verify contract details such as salary, working hours and conditions. This can prove a challenge given that co-workers may suffer from the same conditions and are reluctant to become involved in disputes. Co-workers can be compelled to give testimony during court proceedings but may be reluctant to criticise their current employer in court for fear of the consequences to them. The lack of written contracts further undermines worker's rights.

Employment contracts need not be long or complicated in order to be legal or effective. In fact clear, simple and concise contracts are much more useful for both employer and employee. They set out what is expected of both parties together with the basic rights of both worker and employer and the process for resolving disputes.

Whilst the Ministry of Labour have developed a template workplace contract, it is inadequate and does not cover certain basic entitlements, including those set out in the Labour Law. For example, Tamkeen has previously noted that template contracts for workers in the agricultural sector issued by Jordanian authorities focus on the duties of the workers not their rights nor the obligations of the employers. The contracts did not contain any information about working hours, tasks to perform, benefits, holidays or resignation.<sup>117</sup>

The existence or non-existence of the rights mentioned in the law in the contract doesn't affect its validity legally, but might only affect the employee's awareness of such rights.

The existing template should be amended to incorporate labour law protections. Even if an improved template is used, it may not cover particular conditions agreed between employee and employer in the work place in relation to conditions, overtime, working hours or pay. In the event of a dispute between employee and employer the provisions of the Labour Law are used as the guiding principle. However if additional benefits or protections have been agreed above the minimum set out in the Labour Law, the onus is on the worker to prove these agreed entitlements. This area of potential dispute could be avoided if the agreed conditions were set out in a simple work contract template.

Employers should be encouraged to ensure that all employees have written contracts setting out basic rights, entitlements and salary. Templates can also be prepared for persons working on an ad hoc basis, such as in the agricultural and construction sectors. Employees can also be provided with simple templates which they can present to their employers. Such contracts provide a level of protection for both parties and assist workers to claim their legal rights and entitlements, including additional entitlements agreed by employees and employers.

## 7.6 Ineffective mechanisms for resolving workplace disputes

Syrian refugees are reluctant to complain about problems at work. They are vulnerable, do not want to draw adverse attention and are fearful of consequences such as being the victim of counter accusations, threats, harassment or intimidation, being detained by the police or sent to the camps.

The GoJ has established a number of mechanisms designed to help resolve workplace grievances. The primary role of policing respect for the Labour Law is with MoL labour inspectors. In terms of resolving disputes responsibility lies with the Wages Authority for disputes over wages for current employees and, for collective disputes, a Conciliatory Representative appointed by the Minister for Labour. All other disputes are under the jurisdiction of the Magistrates Court. A collective dispute is defined in the Labour Law as one that arises between a group of employees or labour union on one hand and the employer or employers association on the other hand about the application or interpretation of a collective work contract or circumstances and conditions of work.<sup>118</sup>

In practice the Wages Authority only functions in Amman and there is little evidence that it is effectively used by anyone. The Head of the Wages Authority has said that he had no recorded claims by any non-Jordanian.<sup>119</sup> Similarly, there is little evidence that the conciliation function of the Minister is effectively used for collective labour disputes. One key informant expressed his view that high turnover within the Ministry was one of the reasons for the lack of capacity with regard to dispute resolution. Whilst some lawyers have

found the staff of the Wages Authority to be responsive and effective, others stressed the long delays in resolving cases. Tamkeen notes that many cases sit with the Wages Authority for long periods of time such as seven months in one example. Staff of the Wages Authority tasked with resolving disputes do not require a legal background but must have relevant experience and skills in the field of work rights. Lawyers highlighted the inconsistency in expertise and responsiveness between different staff at the Wages Authority. The fact that decisions of the Wages Authority are legally binding was seen as an advantage, although it was felt that the head of the Wages Authority should be a judge in order to ensure consistency with court decisions on employment law and comparability with the role of courts. The main problems with the Wages Authority were its lack of capacity and proper resourcing as well as the lack of timely implementation of its decisions. All interlocutors agreed that the Wages Authority requires a major overhaul.

Urgent steps should be taken to provide a fast, safe and more effective mechanism for resolving employment disputes which minimises any adverse consequences for employees. The Wages Authority could be restructured to institute a fast-track system for resolution of disputes, with a special focus on mediation. This could include a confidential hotline for complaints, a simple complaints procedure, attempts to mediate simple disputes by specially trained staff within 4 weeks with follow-up to ensure the issue is resolved and staff have not faced adverse consequences. Wages Authority staff could be trained in principles of mediation. More complex cases could be referred to senior staff within the Wages Authority for a formal determination within a 3 month period. As the Wages Authority operates only in Amman, access to workers outside Amman is limited. Branches of the Wages Authority should be established in other regional hubs which may accelerate decision making and reduce backlogs.

As the jurisdiction of the Wages Authority is limited to pay disputes whilst the employee remains employed with the same employer or within six months of leaving the employer, this could be expanded to a formal mediation role to civil claims filed in the courts. Upon the filing of a wage dispute, parties could be referred to the Wage Authority for compulsory mediation of the dispute. If the Wages Authority was unable to resolve the dispute, the case could be returned to the court with a summary of efforts undertaken by the Wages Authority. Such a process would provide a relatively inexpensive and rapid mechanism to resolve such disputes, encourage parties to find a solution and reduce the burden on the court. In order to take these steps, the Wages Authority would need to be properly resourced and restructured.<sup>120</sup> This is an area in which donor financial support is essential in order to ensure the effectiveness of the investment made by the international community and the government of Jordan to promote work rights for refugees.

## 7.7 Lack of protection for agricultural workers

Article 3 (D) of the Labour Law notes that the law does not apply to agricultural employees except those who are included under the provisions of this law by a resolution of the Council of Ministers upon the recommendation of the Minister. Pursuant to a regulation passed in 2003 this covers only certain technical categories such as veterinarians and technicians.<sup>121</sup> It does not apply to agricultural labourers.

Accordingly, it is unclear what protection, if any, is accorded to agricultural workers. During FGDs it was reported by participants working in the agricultural sector that conditions for work are difficult. Workers receive a daily salary with no allowance for rest days, paid leave, sick leave nor any other benefits.

FGD participants in Mafraq and Kils explained how many of the agricultural workers live in Informal Tented Settlements (ITS) scattered around rural areas. Each ITS has its own leader or representative referred to as a Shawish. Farmers wishing to contract labourers contact the Shawish and request the numbers and types of skills they require on a daily basis and the Shawish is responsible for deciding who to send from the ITS. The Shawish is paid directly by the farmer and is responsible for paying the workers. In one ITS with a Shawish he reported that all of his workers had an agricultural work permit which he arranged for them personally.

The positives of this Shawish system are that the Shawish is in a position of some power relative to farmers. If a farmer treats workers poorly or does not pay on time the Shawish may have the power to stop workers from his ITS working for that farmer and to move labour to different farmers. The two Shawish met during Kils reported that they did not usually have disputes with farmers as, particularly during harvest season, the farmers were desperate for labour. The negatives of the system are that the unelected Shawish is in a position of power and control within the ITS, with a strong relationship to farmers and the power to distribute work amongst ITS workers arbitrarily. There is significant risk of exploitation and abuse of power. It is difficult to hold the Shawish to account.

Whilst it is typical in many contexts to limit entitlements, such as social security, leave and other entitlements which are designed for full-time or part-time work to persons working on an ad hoc basis, this is generally covered by an increase in the hourly wage. This is not the case in Jordan. Certain minimum entitlements should be guaranteed to seasonal agricultural workers and this should be covered by an amendment to the Labour Law. Such entitlements include the right to be paid the minimum wage on a pro rata basis for work performed, flexibility in working hours, exemption from work on Fridays unless the work requires otherwise,



Ali Etoum, 50-year-old Jordanian man who retired from the military. Ali is one of the participants in the GIZ funded CfW project. The project focuses on planting around the area of the botanical garden.



Damen, 40-year-old tiler from Dar'a, Syria, is a father of four, living in Jordan since 2012. "Before obtaining a work permit I faced many work-related problems," says Damen. With support from NRC, Damen now has legal documents, job security and a steady income. NRC's Information Counselling and Legal Assistance (ICLA) programme in Jordan helps Syrian refugees access work rights.

compensation for time worked over 48 hours, coverage for work related injuries, protection from hazardous or unsafe working conditions, the right to retain personal documents and protection against arbitrary dismissal, as compared to termination of employment when work is no longer available.<sup>122</sup>

Agricultural worker permits for Syrian refugees are not linked to specific employers and are generally issued by agricultural Cooperatives. While, the decentralisation of issuing permits has expedited the process, it is clear that this has not greatly improved the working conditions. There may be space for cooperatives to take on more of a role in ensuring decent working conditions for agricultural workers. For example, it may be feasible for these Cooperatives to take out basic social security coverage for workers who are issued work permits by these Cooperatives. In order to ensure increased awareness of worker rights, Cooperatives should also be tasked with informing both employers and employees of workplace rights and entitlements. However, even as Cooperatives could be positive market actors, findings do indicate that agricultural Cooperatives do not always follow proper procedures in the issuance of permits and abuses have been known to occur. These include charging exaggerated permit fees over the JD10 fixed permit fee. Inspectors from the MoL as well as international monitoring bodies, such as ILO who have been involved with the agricultural permit regime, should ensure proper scrutiny of the practices of agricultural Cooperatives to prevent abuse of the system.

In dialogue with Tamkeen, the government has indicated an intention to amend the Labour Law to cover agricultural workers on a pro rata basis, including under the social security scheme. However, those changes have not yet been made and Syrian agricultural workers remain unprotected. It is significant that agricultural workers were covered by the temporary Social Security Law in 2010, but were not included in the later Social Security Law of 2014.<sup>123</sup> The international community should support this initiative by providing monetary and capacity support associated with detailed action planning and resource budgeting.

### 7.8 Unclear contractual status of construction workers

During KIIs with ICLA staff as well as lawyers working for Tamkeen and JCLA uncertainty arose about whether construction workers are covered by the Labour Law. Although they hold work permits, they are considered to be self-employed

workers with 'freelance permits' not linked to a particular employer.

#### Case study

Marwan, a Syrian refugee aged 21, worked in construction for 6 months without a work permit. In the end he was injured and as he was no longer able to work his employment was effectively terminated without any further notice. He received no sick leave or any other assistance. He reports that even before he got injured he and the other workers worked long hours 6 days a week, many more than the 48 allowed under the law. As he had no work permit he had not paid for the mandatory injury insurance required for obtaining a 'freelance' construction work permit.

FGD, Irbid, 6th March 2018

The Labour Law is relatively clear with regard to the definition of an employee, "Every person, male or female, who performs a job against wages and is a subordinate to the Employer and at his service is considered to be an employee." In accordance with the Labour Law, persons who work for an employer for either 16 days consecutively or who are in an ongoing relationship with the employer are considered to be in an employment relationship and thus covered by the provisions of the Labour Law. During KIIs a range of different views were expressed by lawyers as to whether a construction worker could be considered an employee. Some held that such 'freelance' workers were not employed but should be considered as contractors. Others said that the test is whether or not the person is free to sub-contract out the work and whether she/he is paid on a daily or hourly wage or for completion of a specific piece work.

#### Case study

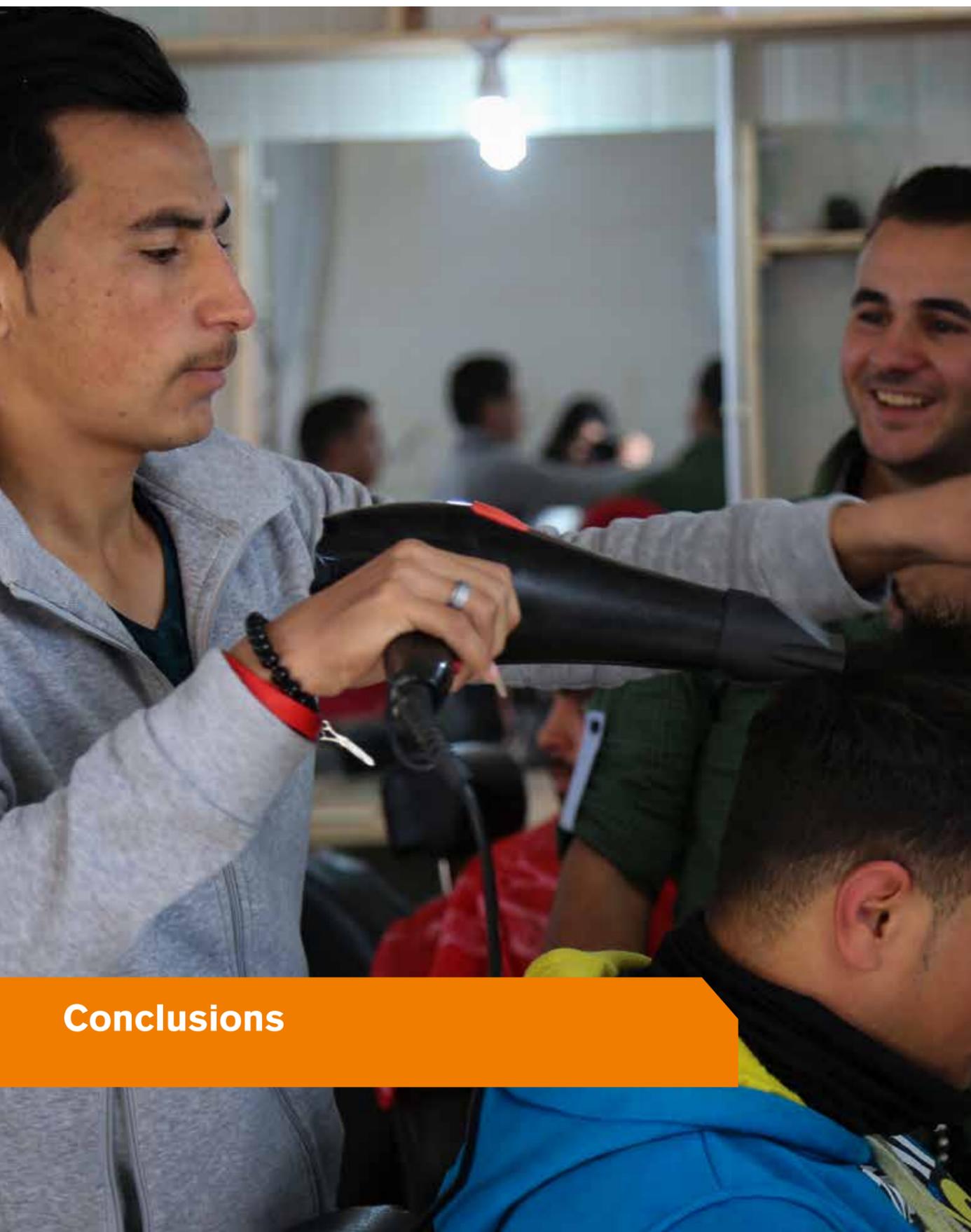
Ibrahim is a construction worker in Irbid. He has an agricultural work permit which he obtained because it was cheap and easy to get. In 2016 he worked for a Jordanian in construction having agreed a fee of 25JD per day. Some time ago the employer started paying him less and promised to pay the rest when he had the funds available. Ibrahim quit a month ago when all of his payments stopped. He is owed 1,200JD in total. He has 9 colleagues in the same position. He now works with other employers. The employer agrees on the amount owed but says that he doesn't have any money to pay despite the fact that he has on-going construction work. In addition Ibrahim reports that he never received any holidays or sick pay although he did have Fridays off, without pay. After attending an ICLA awareness session he met with the ICLA and the Tamkeen lawyer for counselling. At this session with the Tamkeen lawyer he agreed for the lawyer to start the mediation process.

Observation of Legal Counselling, Irbid, 6th March 2018

If the construction worker is considered an employee they have the full range of rights and remedies under the Labour Law. If they are considered as a contractor they are deprived of these rights. Complaints are considered contractual financial claims which must be taken to the civil courts.

The construction industry typically employs intermediaries who act as a go-between or agent between construction workers/labourers and different construction companies. They recruit, supervise and pay construction workers on behalf of the company, or different companies, on an individual basis. The relationship between construction workers and intermediary is unclear and should be clarified in the law to provide construction workers with proper coverage. This is critical to resolve issues of liability, disputes over pay and conditions and working conditions. In situations of ongoing employment through an intermediary, construction workers with work permits should be covered by the Labour Law. A relatively simple amendment to the Labour Law on the status of intermediaries could resolve this important issue. In all situations, construction workers/labourers should have employment contracts with the middle man or direct employer setting out their rights and entitlements.

Similarly to agricultural workers, construction workers on 'freelance' permits should be entitled to the basic protections under the Labour Law including the right to be paid the minimum wage on a pro rata basis for work performed, exemption from work on Fridays unless the work requires otherwise, compensation for time worked over 48 hours, the right to retain personal documents and protection against arbitrary dismissal, as compared to termination of employment when work is no longer available. The right to receive compensation for work injuries and to be protected against unsafe or hazardous work practices is of particular importance in the construction industry. In addition to this legal protection, the GFJTU issuing construction permits should inform both employers and employees of these entitlements.



## Conclusions

Numerous studies have been written on the benefits of refugee labour market integration, not just for refugees but for local workers and the national economy. Economic benefits include new jobs and increased taxation revenue that can outweigh the cost of social services. Refugees can also fill labour shortages, introduce new skills and techniques which increase productivity and foster economic opportunities within the refugee community as well as longer-term trade relations between the host country and the refugee's country of origin.<sup>124</sup>

The economic picture in Jordan is mixed. Economic growth has slowed as a result of crises in the region and unemployment has increased since 2011. The percentage of Jordanian workers active in the construction industry has decreased and the influx of cheap labour may have impacted on wages for unskilled Jordanians.<sup>125</sup> However, analysts have also noted that the service sector, covering a third of the Jordanian labour force has been unaffected whilst in the retail sector the share of Jordanian workers remained constant at 18% in addition to absorbing a significant share of Syrian workers (23%). Further, according to ILO data it appears that Syrian businesses in Jordan have increased job opportunities for both Syrians and Jordanians with over USD200 million in investment in free economic zones since 2011.<sup>126</sup>

Against this challenging backdrop the Jordanian government has made serious efforts to integrate Syrian refugees into the Jordanian labour force, with 135,500 work permits issued to Syrian refugees within the last two years. Structural and policy changes have eased the entry of Syrian refugees into the formal labour market and allowed many Syrian workers to find work and to regularise their previously informal working arrangements.

However, despite large scale gains made for Syrian refugees, a variety of challenges exist in relation to access to the labour market and employer compliance with work rights. Based on field research and NRC's programmatic work on work rights, a number of findings have emerged. Whilst refugees have a high level of knowledge about the application process for agricultural and construction permits, there is limited information about the process for applying for permits in other sectors open to Syrian refugees. Rules on social security rights and entitlements are a particular source of confusion. Whilst many Syrians would like to formalise their working arrangements, they face numerous problems including unregistered businesses which are unable to sponsor them, unwilling employers who cite costs and complexity and the restriction in applying for jobs in closed sectors, leading many Syrians to work in those sectors informally.

The situation of respect for work rights is problematic. Despite guarantees of rights within the domestic legal framework, the situation is vastly different in practice. Syrian refugees face daily challenges in obtaining their work entitle-

ments. Written work contracts are typically non-existent. Refugees often struggle to have their wages paid or face delays in payment. They face arbitrary and unfair dismissal, are asked to work excessive hours without overtime and work in poor conditions. They are often forced to work informally and without social security. Even if workers are registered for social security, some employers report lower wages to the Social Security Department in order to pay a lower rate of social security. The status of agricultural workers, and freelance construction workers is unclear under the Labour Law and they may be deprived of essential worker's protections. Most significantly, Syrian refugees do not feel the ability to enforce their rights. Firstly, there are no effective and enforceable mechanisms to resolve work disputes, other than taking cases to court. The Wages Authority is under-resourced, overburdened and extremely slow. Secondly, Syrians fear losing their jobs or facing different adverse consequences from employers if they insist on their rights. The system of workplace inspections has potential for improving workplace conditions as it does not require direct action by Syrians against employers and is thus less risky for workers. However the current system is underfunded and ineffective in the field.

Building on the significant structural gains made by the government to facilitate access to the labour market, further steps can be taken by the government to improve access and protect worker's rights. Incentives can be provided to encourage Jordanian small businesses to register in accordance with the law. Measures to open up closed sectors to Syrian workers are welcome and should be monitored to gauge their effectiveness. Guarantees of the protection of key work rights should be provided to freelance agricultural and construction workers. Mechanisms should be immediately established to provide a safe, prompt and effective means of work place dispute resolution, particularly for wages disputes. Such a package of legal and policy reforms would facilitate further access to the labour market to Syrian refugees, reduce the incentives for informal employment and entrench the gains through the effective protection of work rights.



## Recommendations

NRC ICLA staff member providing counselling on work rights at the Labour Union.

### Recommendation 1 – Reducing the informal economy; encouraging formalisation of work

- The Government should review obstacles to the registration of small businesses and their ability to comply with the Labour Law when hiring employees, including refugees.
- The level of monthly social security contributions should be reduced for small businesses. Procedures must be simplified so that businesses are more easily able to comply.
- Businesses who do not comply with business registration, Labour Law and Social Security obligations should be penalised in order to compel compliance.
- In order to reduce bureaucratic hurdles and simplify work permit requirements for refugees in Jordan, legal residency permits and MOI cards should allow access to work without the need for a work permit.

### Recommendation 2 – Assessing labour market needs and liberalising closed sectors and promoting inclusivity

- Following the Government's positive decision to establish a committee to consider opening up closed sectors to Syrian workers subject to market needs and job opportunities for Jordanians, the impact of the changes should be reviewed over a 6-12 month period to measure its tangible impact for refugees. Key considerations will be which sectors are opened, how and to which degree and what impact this has on the situation of Syrian job seekers as well as Jordanian nationals.
- Representatives of the international and refugee community should be included in committee discussions and action planning. In addition, private sector representatives should have a leading role in committee discussions.
- A specific work plan with associated capacity needs assessment should be developed highlighting the specific activities and associated goals of the committee and the support needed from the international community to achieve these goals.
- A labour market study should be conducted across the various labour sectors in Jordan (open and closed) identifying areas in which refugees could work with minimal impact on the job opportunities of Jordanian nationals. The survey should also review working conditions across the sector.
- Positive measures should be introduced to ensure inclusivity in the labour market particularly in relation to the employment of women, youth, older persons of working age and disabled persons.

### Recommendation 3 – Promoting compliance with work rights

- Improved measures to protect worker's rights should include a government campaign to promote respect for work rights targeting employers, employer and employee associations, cooperatives and employees through national and social media, webpages and other accessible sources of information with a confidential complaints line.
- Regular consultation should take place with organisations representing workers rights, including specialist agencies such as Tamkeen as well as with employer associations with the power to influence members to comply with the Labour Law. Sectors with the highest number of workplace infringements could be singled out for particular attention.
- The number of workplace inspectors should be increased and they should be directed to look at poor working conditions, not just permits, report on such conditions and take action against employers. In order to ensure their independence from local pressures, they should either be recruited from outside their place of origin, or be subjected to monitoring to ensure they act independently of pressure from employers.
- The donor community should provide funding and assistance to the Ministry of Labour to allow the workplace inspection system to be properly resourced.
- The requirement that a clearance be obtained from a former employer before commencing with a new employer should be abolished.
- Syrian workers should be advised of their rights and entitlements under the social security scheme and provided with assistance to access payments. This advice should cover who is obliged to pay, what benefits are covered and the circumstances and procedures under which Social Security can be claimed or paid out.
- Employers should be reminded of their obligation to contribute to social security, which cannot be passed to the employee. Such obligations should be strictly enforced by the Social Security Directorate and Ministry of Labour through sanctioning employers who seek to avoid these expenses.
- Agricultural workers should be included in the social security scheme on a pro rata basis, or be covered by the Cooperatives issuing them with agricultural permits.
- A mechanism should be established by which Syrian workers can approach the Social Security Directorate to ask about their entitlements and have any outstanding payments made to them at the time of departure from the country. They should be assisted in claiming compensation from employers who have not registered them or underpaid social security on their behalf.

### Recommendation 4 – Importance of adequate written work contracts

- The Government should promote the usage of clear, simple and concise work contracts which set out what is expected of both parties together with the basic rights of both worker and employer and the process for resolving disputes. Such contracts should be flexible enough to be adapted to various fields of labour. They should also allow for the inclusion of additional articles in a way that does not contract the main provisions of the contract.
- The existing Ministry of Labour contract template should be amended to include additional worker conditions as set out in the Labour Law.
- Cooperatives, employee and employer associations and NGOs working on employment issues should develop simple work templates, adapted to both full-time and ad hoc or seasonal employment setting out basic terms and conditions. Such templates should be promoted for use by both employers and employees.
- Workers should be urged to ask their employers to include additional conditions agreed with employers on overtime, flexible working hours, salary and working conditions in their contracts to avoid later disputes on the issue.

### Recommendation 5 – Labour law protections for agricultural workers

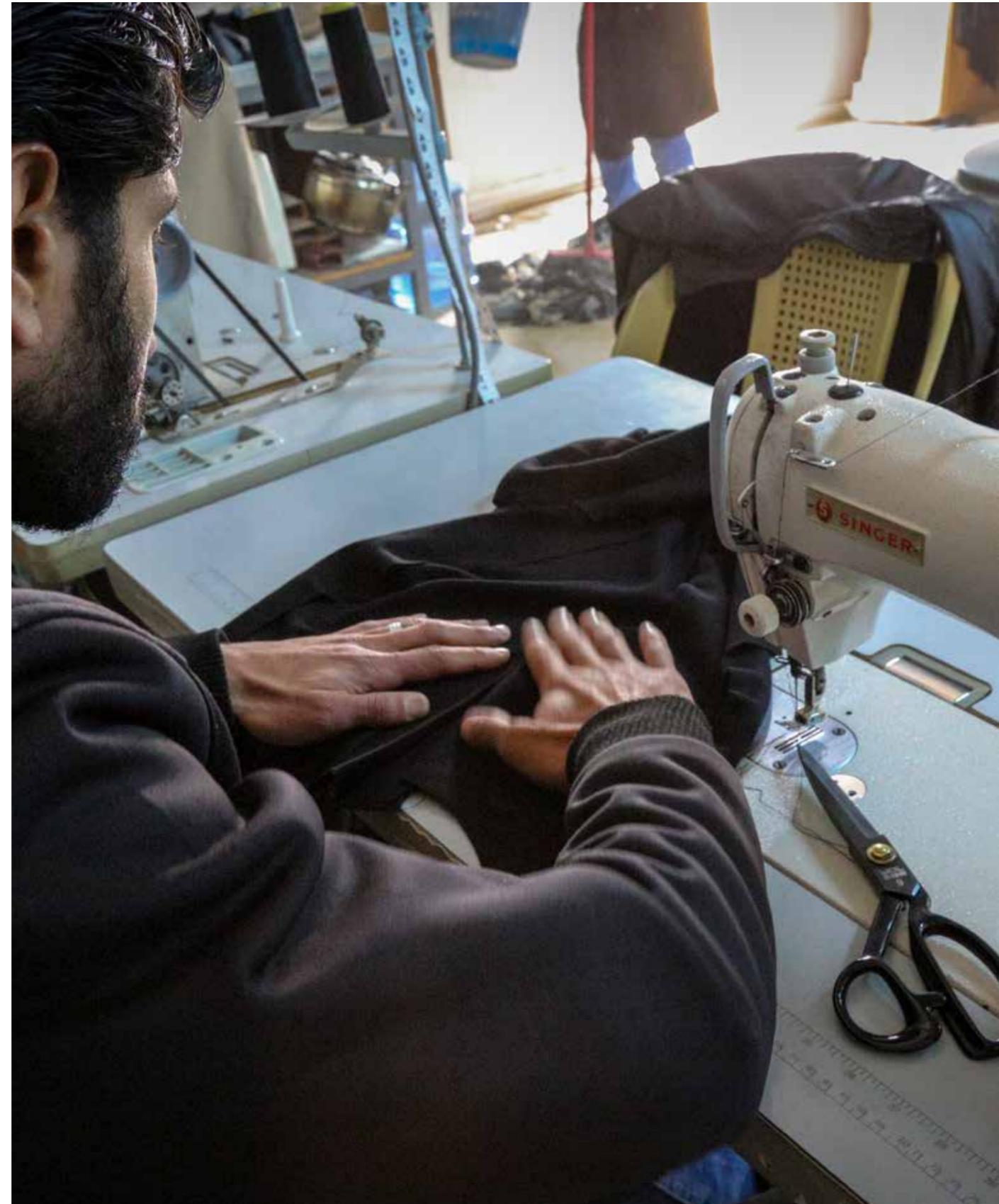
- The Government should take measures to guarantee minimum entitlements in the law for seasonal agricultural workers. Such entitlements include the right to be paid the minimum wage on a pro rata basis for work performed, exemption from work on Fridays unless the work requires otherwise, compensation for time worked over 48 hours, coverage for work related injuries, protection from hazardous or unsafe working conditions, social security protection, the right to retain personal documents and protection against arbitrary dismissal.
- Cooperatives issuing agricultural permits should inform both employers and employees of these entitlements.
- Ministry of Labour inspectors and other monitoring bodies, such as ILO, should ensure that agricultural Cooperatives are following proper procedures in issuing agricultural permits and not charging additional fees or exerting improper influence in the process of issuing permits.
- Government and private sector stakeholders are suggested to collaborate and develop a decent work agenda and accompanied action plan for rural communities dependent on the agricultural sector. Interventions, including agribusiness and market support should prioritise employment that offers alternatives to daily seasonal work and protections found under the Labour Law. The international community should support interventions found within this agenda that focus on sector growth and promoting inclusion throughout.

### Recommendation 6 – Clarifying work rights of construction workers

- The employment relationship between construction employers, middle-men and self-employed construction workers with construction work permits should be clarified to ensure workers within a continuing employment relationship are covered by the Labour Law and receive all entitlements. These include the right to be paid the minimum wage on a pro rata basis for work performed, exemption from work on Fridays unless the work requires otherwise, compensation for time worked over 48 hours, coverage for work related injuries, protection from hazardous or unsafe working conditions, the right to retain personal documents and protection against arbitrary dismissal.
- The GFJTU issuing construction worker permits should inform both employers and employees of these entitlements.

### Recommendation 7 - Improved mechanisms for resolving workplace disputes

- The Wages Authority should be restructured and properly resourced to institute a more efficient system for resolution of disputes. This would include a confidential hotline for complaints, a simple complaints procedure, attempts to mediate less complex disputes by specially trained staff within a 4 week period with follow-up to ensure the issue is resolved and staff have not faced adverse consequences. More complex issues could be referred to senior staff within the Wages Authority for a formal determination within no later than 3 months.
- The Wages Authority should ensure greater consistency in staff experience and responsiveness in complaints handling. Staff should be trained in principles of mediation.
- Offices of the Wages Authority should also be established outside of Amman to ensure access to workers outside Amman and fast track decision making.
- Ideally, the head of the Wages Authority should be a judge.
- Upon the filing of a wage or work rights dispute in civil courts, parties should be referred to the Wage Authority for compulsory mediation of the dispute. A specialist mediation unit should be established within the Wages Authority with specially trained staff. If the Wages Authority is unable to resolve the dispute within 3 months, the case should be returned to the court with a summary of action taken and information collected by the Wages Authority.
- The donor community should fund the Wages Authority to allow it to effectively and expeditiously resolve wage disputes for refugees.
- The critical role of civil society organisations in mediating work right and wage disputes on behalf of employees should also be recognised as a means of reducing pressure on an overburdened system.



## References

1 The 'Jordan Compact' was established in February 2016 between Jordan and other international donors and stakeholders following the 2016 London Conference 'Supporting Syria and the Region'.

2 Better Work, Discussion Paper 25, 'Examining Barriers to Workforce Inclusion of Syrian Refugees in Jordan', July 2017, <https://betterwork.org/blog/portfolio/discussion-paper-25-examining-barriers-to-workforce-inclusion-of-syrian-refugees-in-jordan/>, WANA Institute, 'Syrian Refugee Employment Trends in Jordan and Future Perspectives', April 2018, <http://wanainstitute.org/en/publication/syrian-refugee-employment-trends-jordan-and-future-perspectives>, IRC, Solving the Refugee Problem in Jordan, 2016, <https://www.rescue.org/report/solving-refugee-employment-problem-jordan-survey-syrian-refugees>, EU Discussion Paper 29, 'The Syrian Refugee Crisis: Labour Market Implications in Jordan and Lebanon', Errighi and Griesse, May 2016, [https://ec.europa.eu/info/publications/economy-finance/syrian-refugee-crisis-labour-market-implications-jordan-and-lebanon\\_en](https://ec.europa.eu/info/publications/economy-finance/syrian-refugee-crisis-labour-market-implications-jordan-and-lebanon_en).

3 NRC/IHRC, 'Registering Rights: Syrian refugees and the documentation of births, marriages and deaths in Jordan', October 2015, <https://www.nrc.no/resources/reports/registering-rights/>.

4 NRC/IHRC, 'Securing Status: Syrian refugees and the documentation of legal status, identity and family relationships in Jordan', November 2016, <https://www.nrc.no/globalassets/pdf/reports/securing-status.pdf>.

5 While some quantitative evidence is referred to in this paper it was not the intention of ICLA to conduct a comprehensive qualitative and quantitative evaluation as part of the report.

6 Ministry of Labour Syrian Refugee Unit Work Permit Progress Update November 2018, <https://data2.unhcr.org/en/documents/download/67243>

7 Refugee Convention, Article 18

8 Refugee Convention, Article 19

9 Convention relating to the Status of Stateless Persons, Articles 17, 18, 19

10 MOU between Jordan and UNHCR, (UNHCR Jordan MOU) 15 April 1998, Articles 2 and 7

11 UNHCR Jordan MOU, Article 8

12 UNHCR Jordan MOU, Article 9

13 Dr Maha Kattaa, 'Social protection and employment for Syrian refugees in Jordan', p 7, [http://www.rdw2015.org/uploads/submission/full\\_paper/20/Social\\_protection\\_and\\_employment\\_the\\_case\\_of\\_Syrian\\_refugees\\_in\\_Jordan.pdf](http://www.rdw2015.org/uploads/submission/full_paper/20/Social_protection_and_employment_the_case_of_Syrian_refugees_in_Jordan.pdf).

14 New York Declaration on Refugees and Migrants, para 84, Also Annex 1, para 13(b)

15 ILO Guiding Principles on the Access of Refugees and Other Forcibly Displaced Persons to the Labour Market (2016), [https://www.ilo.org/global/topics/labour-migration/projects/WCMS\\_536440/lang-en/index.htm](https://www.ilo.org/global/topics/labour-migration/projects/WCMS_536440/lang-en/index.htm)

16 ILO Guiding Principles, para 13

17 It is important to note the Jordan Compact also contains

language and metrics around increasing access to education and improving social inclusion.

18 Alfred, Charlotte; Daniel Howden; and Hannah Patchett, "The Compact Experiment, Push for Refugee Jobs Confronts Reality of Jordan and Lebanon", Refugees Deeply, December 2017, <http://issues.newsdeeply.com/the-compact-experiment>

19 Comprehensive Instructions on Conditions and Procedures of Employment of Non-Jordanians of Syrian Nationality Workers for 2018, Article 4(b) ('Comprehensive Instructions')

20 Article 12 of Labour Law

21 Comprehensive Instructions Article 4(b)

22 MOPIC Statement of Council of Ministers decision of 7 November 2018, <https://data2.unhcr.org/en/documents/download/67242>

23 UNHCR Protection Cluster Working Group

24 International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 6

25 ICESCR, Article 3

26 ICESCR Committee, General Comment No. 18, para 1

27 Cairo Declaration on Human Rights in Islam, Article 13

28 See also ILO Convention on the Worst Forms of Child Labour (1999)

29 ILO Minimum Age Convention (1973), Article 2(3), although Article 2(4) permits a working age of 14 in certain contexts.

30 Convention on the Rights of Persons with Disabilities,

31 International Convention on the Protection of the Rights of All Migrant Workers and their Families, Article 25(3)

32 It should be noted both with respect to work permits and work rights that there is a draft new Labour Law before the Jordanian parliament which may amend this framework considerably, if passed.

33 Article 12 of Labour Law

34 An ILO mission report from 22-24 September, 2013 noted that the Jordanian government had given priority to Syrians to obtain work permits as referenced in an ILO report from 2015, Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies ([http://www.ilo.org/wcmsp5/groups/public/---arab-states/---ro-beirut/documents/publication/wcms\\_357950.pdf](http://www.ilo.org/wcmsp5/groups/public/---arab-states/---ro-beirut/documents/publication/wcms_357950.pdf)). However, there is no indication when the GoJ commenced giving priority to Syrian refugees with regards to work permits.

35 Comprehensive Instructions, Articles 5, 7

36 Kattaa, p 5, see also Jordan's Agreements website. "Agreement Of Workforce Cooperation Between The Government Of The Hashemite Kingdom Of Jordan And The Government Of The Syrian Arab Republic." 8 October 2001. Available at [www.jedco.gov.jo](http://www.jedco.gov.jo)

37 An administrative processing fee of 10JD is still charged with an additional 2JD fee for non-employer specific permits, or 'freelance' permits, in the agriculture and construction sectors.

38 Comprehensive Instructions, Article 4(b)

39 Ministry of Labour circular number 76/2019, 19 February 2019

40 Jordanian National Commission for Women, 'The current status, structure and legislative framework on cooperatives in Jordan 2016', <https://www.eda.admin.ch/dam/countries/countries-content/jordan/en/Gender-Study-Jordan-english.pdf>.

41 It used to be the case that applicants for construction work permits must have held a Recognition of Prior Learning (RPL) certificate, which was obtained through the Centre for Accreditation and Quality Assurance (CAQA). The RPL course that workers were required to complete included sections related to occupational safety and health (OSH), in which workers received practical instruction on workplace health and safety measures and requirements. This requirement is no longer in place.

42 Comprehensive Instructions, Article 7

43 Comprehensive Instructions, Article 6

44 UNHCR Jordan Fact Sheet, February 2018. Up until the end of January 2018 a total of 8,607 work permits had been issued for refugees living in Azraq Camp and 4,584 for those from Za'atari Camp.

45 Syrian Refugee Unit Work Permit Progress Update as of 3 March 2019

46 Syrian Refugee Unit Work Permit Progress Report November 2018.

47 Minutes of Livelihoods Working Group, 13 December 2018

48 Work permits regulations and employment outcomes of Syrian refugees in Jordan: towards the formalisation of Syrian refugees employment / ILO, Regional Office for Arab States. - Beirut: ILO, 2017.

49 Ibid.

50 Tamkeen update

51 This summary should NOT replace a comprehensive reading of the law for those providing legal counseling or other legal assistance.

52 Article 53 of Labour Law

53 Note that those in the construction and agricultural sectors are excluded from this obligation.

54 Employers may ask employees to sign a 'non-competition' clause restricting employees from moving to a competitor. Employees are prohibited from disclosing industrial or trade secrets even after end of their employment. (Article 19 of Labour Law).

55 Whilst agricultural workers were covered by the Temporary Social Security Law No. 7 for the Year 2010, they are not covered under the 2014 Social Security Law; see also Tamkeen, 'Forgotten Rights: The Working and Living Conditions of Migrant Workers in the Agricultural Sector in Jordan', [http://tamkeen-jo.org/upload/Forgotten\\_Rights\\_en.pdf](http://tamkeen-jo.org/upload/Forgotten_Rights_en.pdf).

56 UNHCR Frequently Asked Questions 'Returns-Liveli-

hood Perspectives', Nov 2018.

57 Article 3 of Regulation No. (4) Of the Year 2003, The Regulation of the Agricultural Workers Categories who are Subject to the Provisions of the Labour Law.

58 MOPIC Statement of Council of Ministers decision of 7 November 2018

59 Article 10 of Labour Law

60 Article 5 of Labour Law

61 Article 9 of Labour Law

62 Article 9 of Labour Law

63 Article (12):(e) of Labour Law

64 Article (12):(f) of Labour Law

65 Article (54) a. of Labour Law

66 Article 54(a) of Labour Law

67 Article 54(a) of Labour Law

68 Article 54(b) of Labour Law

69 Article 54(c) of Labour Law

70 Article 54(e) of the Labour Law

71 Article 54(d) of the Labour Law

72 Article 54(f) of the Labour Law

73 The 17% figure is based on the Ministry of Labour's issuance of 315,045 work permits in 2015 (NCHRD and Al Manar, 2016), Ministry of Labour's estimate of 1.4 million non-Jordanians working in Jordan (Jordan Times, February 5, 2017), and the estimates of Leading Point (2016) and Tamkeen (2014) on black-market-sponsorship.

74 Better Work report

75 ILO and Fafo, 2015.

76 NRC Meeting with Director of Employment, MoL, in Ramtha, 6th March 2018.

77 Ramtha and the surrounding region was noted before the conflict as a centre for trade and smuggling with weak GoJ institutions. It would seem this perception for a lack of rule of law in the area has continued.

78 See also IRC report 'Solving the Refugee Problem', p 14

79 EU Discussion Paper No. 29, p 20

80 Better Work report, p 52

81 NRC REACH Assessment, 'Informing Refugees: Communication to and for Syrians in Jordan's Host Communities', April 2017

81 JCLA are also a partner with ICLA but not in relation to work rights.

83 Tamkeen, 'Forgotten Rights', p 21

84 Better Work report, p 52

85 IRC Solving the Refugee Problem, p 6

86 IRC Solving the Refugee Problem, p 10

87 See for example, Better Work report, p 57, IRC Solving the Refugee Problem, p 13

88 In recent months reports from refugees and other key informants indicate the GoJ is no longer deporting Syrians to Syria however the threat that they will recommence hangs over the Syrian refugee community.

89 IRC Solving the Refugee Problem p 17

90 Better Work report, p 63

91 EU Discussion Paper No. 29, p 18, see also Better

Work report, p 47

92 See International Labour Conference on the Transition from the Informal to the Formal Economy Recommendations 2015, (No. 2004). ILO Rules of the Game, p 55

93 WANA Institute, 'Syrian Refugee Employment Trends, p 12

94 EU Discussion Paper No. 29, p 21

95 Better Work report, p 47-8

96 EU Discussion Paper No. 29, p 21

97 The World Bank, "Policies to Reduce Informal Employment, and International Study"; April 2011

98 Livelihoods Working Group Meeting, 13 December 2018

99 Better Work report, p 45-50

100 WANA Institute, 'Syrian Refugee Employment Trends, p 4

101 UN Women, 'Women Working: Jordanian and Syrian Refugee Women's Labour Participation and Attitudes Towards Employment: UN Women and REACH', (2017); <http://jordan.unwomen.org/en/digital-library/publications/2017/3/jordanian-and-syrian-refugee-womens-labour-force-participation-and-attitudes-towards-employment>

102 Better Work report

103 UN Women, 'Women Working: (2017)

104 ibid

105 Better Work report, p 51, 56

106 IRC Solving the Refugee Problem, p 18

107 See also ILO Guiding Principles on Access of Refugees, para 18(b)

108 Tamkeen, 'Forgotten Rights', p 80

109 ILO, 'Rules of the Game', 2019, p 53

110 Tamkeen, 'Forgotten Rights', p 81

111 Better Work report, p 38

112 Internal NRC report, 2017.

113 UNHCR FAQ, 'Returns Livelihoods Perspectives', November 2018

114 ILO Guiding Principles on Access of Refugees, para 19

115 ILO Rules of the Game, p 79

116 EU Discussion Paper No. 29, p 19-20

117 Tamkeen, 'Forgotten Rights', p16

118 Labour Law, Article 2

119 Meeting with NRC staff on 18 May 2018

120 See also Better Work report, p 76

121 Regulation No. (4) Of the Year 2003, The Regulation of the Agricultural Workers Categories who are subject to the Provisions of the Labour Law

122 See also Tamkeen's previous recommendations that the Labour Law be extended to cover agricultural worker; Tamkeen, 'Forgotten Rights', p 96

123 Tamkeen, 'Forgotten Rights', p 81

124 Forced Migration Review, September 2013, 'Refugees Right to Work', Arnold Fernandez and Pollock, p 92, <http://www.fmreview.org/detention/arnoldfernandez-pollock.html>

125 EU Discussion Paper No. 29, p 20

126 EU Discussion Paper No. 29, p 20

