

Breaking the Silence !!



Irregular migrant workers in Jordan:
between marginalization and integration

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Research team

Dr. Mohammad Al-Musa

Mr. Mohammad Yacoub

Tamkeen Center for Legal Aid and Human Rights team

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The situation of irregular migrant workers has become an issue of major concern for human rights activists, as this category of migrant workers usually faces a myriad of problems and human rights violations. Their situation needs to be studied and analyzed in order to find solutions that comply with human rights standards recognized in international human rights law and international conventions related to legal and irregular migration.

In the beginning, we should define a “migrant worker” as a person who lives and works either permanently or temporarily away from his/her home country. This definition does not differentiate between regular (i.e. legal) and irregular (sometimes referred to as “illegal”) workers. The definition of an irregular migrant worker, as outlined in the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (1990), is a worker who does not have a visa, residency or work permit. It is worth mentioning that the statistics related to migrant workers often lack accuracy and overlook some or all irregular migrant workers such as workers in the unofficial economy and those who work in vocations other than those permitted for them.

There is no doubt that the number of irregular migrant workers has been growing in Jordan, and their situation has become of increased interest to human rights organizations concerned with providing aid to defend their basic human rights. This research aims to expose the actual living conditions of irregular migrant workers in Jordan and document the violations that affect their internationally-recognized rights and freedoms. Additionally, the study describes the main reasons for workers to become irregular in Jordan. Rather than seeking to list all problems suffered by migrant workers or describe the exact size and breadth of the problem, the study aims to expose the most important of these problems and violations. The main purpose of the study is to be a tool to gain the support needed to address the problems of irregular migrant workers, and to draw attention to the realities of their living situations and the suffering caused by violations of their human rights. In order to attain this objective, this study aims to achieve the following:

- Describe the magnitude of this phenomena and its development.
- Identify the characteristics of the irregular migrant workers in Jordan in terms of demographics, educational status, vocations that they most occupy, wages they are paid, and other related topics.
- Portray the situation of migrant workers and their living and working conditions.
- Describe the problems faced by migrant workers and their satisfaction with their living and working conditions.
- Identify the role of the public and private sector in maintaining migrant workers’ rights and protecting their interests.
- Identify the proposed solutions that migrant workers suggest for improve their working conditions.

- Determine the deficiencies in Jordanian legislation related to migrant workers and its limitations in addressing this phenomenon in Jordan.
- Determine compliance of working conditions with human rights conventions and international labor conventions.
- Provide recommendations and suggestions to assist in protecting the irregular migrant workers' rights.

In order to achieve the above mentioned objectives and aims, this study will try to answer the following questions:

- What are the characteristics of the irregular migrant workers in Jordan such as nationality, gender, age, marital status, educational and vocational status, monthly wage, and others?
- What is the situation of irregular migrant workers in Jordan in terms of their access to rights defined in international conventions and norms?
- What are the main features of their living and social conditions in Jordan?
- What care is provided for the irregular migrant workers in their work?
- What are the problems faced by irregular migrant workers in Jordan? What are their main causes?
- What are the recommendations suggested by the irregular migrant workers to protect their rights?

The methodology used in this study was based on scientific data collection, which was then analyzed to present a set of facts that accurately reflect the situation and basic living conditions of irregular migrant workers. The data were collected through studying and analyzing tens of the cases received by Tamkeen Center for Legal Aid and Human Rights related to irregular migrant workers. Additionally, the study distributed a questionnaire that included specific questions related to the basic objectives of the study. The data were analyzed statistically, before providing recommendations derived from the results of the study.

The study design ensured that the sample selected in all data collection (the questionnaire, interviews and case studies) represented to a large extent the original community so that the results would have a high level of objectivity and accuracy. Hence, the methodology used for this field study was for a targeted sample, not a random one. This way of preparing the sample complies with the rapid evaluation methodology that was applied in this study. The methodology is considered appropriate since this study aims at identifying the irregular migrant workers phenomenon and the violations they face, and it is not concerned with providing an exact figure of the number of migrant workers throughout Jordan. Consequently, the questionnaire sample included 87 cases of irregular migrant workers, and it was distributed geographically over the provinces and included males and females from different ages, educational and social statuses.

The questionnaire included 57 questions covering the basic data of irregular migrant workers' rights according to international human rights conventions including the

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The following factors were taken into consideration when designing the questionnaire: the questions must align with the study's objectives; questions should be clear, easily understood, and divided into consistent groups; and open questions are included to provide space for participants to state their opinions and perspective freely.

An adequate number of qualified researchers were chosen and trained to collect data during two intensive days. The data were collected from the sample being study through one-on-one interviews in April and May of 2011. The data also was reviewed, coded and prepared for the statistical analysis stage.

In addition, the analytical and descriptive statistics were examined using the Statistical Package For Social Science (SPSS). The descriptive statistics (frequencies, percentages) were used to classify the migrant workers over independent variables, which were social or demographic variables related to the work itself. The descriptive statistics were also used to describe the working conditions based on the data provided from the workers themselves and the violations that they face. The main topics were derived from an analysis the charts. Additionally, we used group analysis and calculated the mean to run CHI squared tests, T-test and F- test to measure the statistical differences and whether these differences are significant.¹ The strength of the relationship between the variables was measured through regression and correlation tests.

It should be noted that there were a number of difficulties that the field study encountered. The sample size decreased as a result of lack of resources. All the questionnaires were conducted by the researches in face-to-face interactions, which took a long time especially if it was being translated to other languages for some participants who do not understand Arabic. Additionally, many of the workers did not have legal knowledge or understanding of their rights, which would help them complete the questionnaire easily and quickly. However, these difficulties were alleviated by the cases that were received by Tamkeen Center from the years 2009-2011, which could be analyzed in this study. These cases provided a key to understanding the main problems facing irregular migrant workers.



¹ T-test compares the actual difference between two means in relation to the variation in the data (expressed as the standard deviation of the difference between the means), while the F-test is designed to test if two population variances are equal. It does this by comparing the ratio of two variances. So, if the variances are equal, the ratio of the variances will be 1.

Migrant workers in general, and irregular migrant workers in particular, usually face a number of problems and violations that must first be revealed in order to find appropriate solutions in accordance with recognized rights in international human rights law.

This study aims to reveal the actual living situations for irregular migrant workers in Jordan and the violations of their basic rights and freedoms through identifying the main characteristics of this category such as general demographics, educational level, sectors and jobs in which they work, average wages they receive, and other related factors. The study also investigated the approach of the public and private parties concerned with protecting the rights and interests of this vulnerable group.

The data were collected through distributing a survey prepared specifically for this study. The sample included 87 cases of irregular migrant workers with acceptable characteristics. The surveys were distributed to all the Kingdom's governorates and included males (79.3 percent) and females (20.7 percent) from various age groups. Data were also collected from dozens of cases related to irregular migrant workers that Tamkeen Center for Legal Aid and Human Rights received. These cases were analyzed according to the aims and hypothesis of the study. All data and information were analyzed statistically, and we then present recommendations based on the statistical results.

The study also examined the main components of the relevant legal framework from both international and national perspectives. It was noted that the legal rules and practices applied in Jordan contribute to the problems faced by irregular migrant workers instead of limiting irregularity. Moreover, the provisions facilitate economic exploitation and trafficking, such as the laws regarding escaped workers and the restrictions on workers' freedom to transfer to another job even after the expiration of their contract.

The study showed that there is no real intention to correct the situation of this group of workers, who are left to their fate and bad luck. The study indicates that treating irregular migrant workers as criminals sometimes leads them to commit prohibited acts for which they may be prosecuted. For example, irregular workers cannot open bank accounts, so they resort to using forged papers for this purpose. Some female irregular migrant workers register their children's names as women who have regular status in Jordan, which is a behavior punishable by the Jordanian law, but committed as a result to their irregular situation.

The following is a summary for the most important findings of the study:

1. Thirty percent (30%) of the respondents were illiterate, and only 21 percent of them had elementary education of six years. Eighty-four percent (84%) of them do not know the emergency numbers. In terms of how they receive information, radio was the most common

method with thirty-nine percent (39%) using it, followed by television, twenty-four percent (24 %). The illiterate respondents were most interested in ways to access information.

2. Seventy-five (75) percent of irregular migrant workers were included in the study were paid a monthly salary of 150-300 JDs. This indicates that migrant workers' need to receive a wage higher than the minimum wage¹, even if it was only slightly greater, can lead him/her to become irregular by changing their occupation illegally in pursuit of better pay.
3. Irregular migrant workers in Jordan suffer from clear economic exploitation. They work for long hours (78 percent stated that they work for more than 8 hours daily), 36.6 percent do not get paid on a regular basis, 74 percent stated that they do not receive any overtime pay, and even those who receive overtime pay get far less than what is stipulated in the Labor Law.
4. Irregular migrant workers are exposed to clearly harsh and inhumane treatment. They are exposed to exploitation and sexual harassment and are also subject to humiliation and beatings from their employers and the recruitment agencies. Domestic workers are especially vulnerable to being trafficked for economic reasons and, in most cases; they fall into conditions of forced labor.
5. Fifty-nine (59) percent of the sample studied had their passports confiscated, and the domestic workers were more likely to have their passport withheld (73 percent) while construction workers were least likely to have it withheld (0 percent).
6. Irregular migrant workers usually face arbitrary or unlawful deprivation of their freedoms, mostly through arresting them and/or holding them under administrative detention that may extend to a long period of time.
7. A large number of these workers suffer from discrimination in many areas such as health (25 percent), transportation (22.5 percent), accommodation (20 percent), and education (12.5 percent).
8. Irregular migrant workers in Jordan lack proper working and living conditions, as the majority of the respondents included in the study stressed that they work and live in poor conditions.
9. Irregular migrant workers suffers from the accumulated fines due to (1) their employers' failure to issue them residency permits, or (2) the workers' escape from his/her employer due to the mistreatment by the employer and/or the employers' failure to pay their wages. The authorities force late fines on the worker even though he/she has nothing to do with the cause of the fines. In many cases, the worker is deported in order to facilitate a return to his/her country. This practice is considered a violation of their human rights.

It is worth reiterating that the value of the field survey is derived from it being an indicator, not an actual statistic, for the extent of the phenomenon of irregular migrant workers, their working conditions, and the violations to which that they are exposed.

¹ Minimum wage is 110 for domestic workers and workers in Qualified Industrial Zones, and 150 JD for all other workers.

Main Recommendations:

- Create a number of legislative amendments that ensure migrant workers' right to choose their work freely, to transfer from one employer to another freely without requiring the employer's approval, and to provide workers who are in conflict with the law temporary work and residency permits.
- Stop administrative detention and the arbitrary, illegal detention of irregular migrant workers, which may extend for long periods, and compensating them for the damage – whether material or emotional – to which they are entitled.
- Seriously consider adopting an integrated, comprehensive program for correcting the status of irregular migrant workers in Jordan.
- Activate inspections of the places that migrant workers occupy, including houses, and investigating independently, effectively and accurately cases where the employer or recruitment agencies are suspected of mistreating or exploiting migrant workers (whether regular or irregular workers).
- Give the right to both the employer and the migrant worker to have a probation period. Do not force any fines on the irregular migrant workers since they were not the cause of them, especially when the failure to renew the residency or work permits are caused by the employer him/herself, or when the migrant worker leaves his/her job due to the employer violating the terms of the contract or abusing and exploiting him/her.
- Join the International Convention for Protecting the Rights of Migrant Workers and Their Families, and harmonize national legislation with this convention.
- The Ministry of Labor, Ministry of Interior, and public security should provide assistance and protection to irregular migrant workers. Reinforce the trust between the public security and the migrant workers, including irregular workers, to encourage them to report crimes of exploitation and serious violations of their human rights that are protected under the penal code in Jordan. Encourage civil society organizations to reinforce and protect their rights.
- Review the list of closed jobs, and make sure that the worker is fully aware of all provisions in his/her working contract. In the cases where the worker signs his/her contract in Jordan, ensure that this copy complies fully and is identical to the contract the worker viewed in his/her country.
- Launch an awareness campaign that targets employers, recruitment agencies, legal professionals, and migrant workers themselves in order to make them aware of the fact that migrant workers have the same human rights that the national citizens enjoys (with the exception of some political rights).

It should be noted that migrant workers – whether regular or irregular – should enjoy the same human rights recognized by international human rights conventions and national laws, including the Convention on the Rights all Migrant Workers and Their Family Members. The one exception is the rights mentioned in the fourth part of this convention, which only applies for the regular migrant workers. They should also enjoy all human rights listed in Jordanian legislation.

The legal framework for this study derives from the commitments by Jordan in the fields of international protection for human rights as well as international work standards. These are derived primarily from international instruments and general principles for human rights recognized by legal systems around the world. Additionally, various kinds of legislation in Jordan related to workers in general, and regular and irregular workers in particular.

The following is a presentation of the basic components of the legal framework for this study, with both international and national aspects.

International conventions related to the rights of migrant workers

Jordan has committed to a number of international conventions, both related to human rights and international labor, which ensure protections for regular and irregular migrant worker. However, Jordan has not committed to the international convention that directly relates to migrant workers' rights, as they have the perspective that the workers are already endowed with human rights and do not need a separate category of protections.

International conventions for human rights

Jordan commits to a number of human rights conventions that provide protection for all migrant workers, whether regular or irregular, as human beings residing in Jordan. Jordan has committed to seven main human rights conventions: The International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment; the Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination Against Women; The Convention on the Rights of Children; and the Convention on Rights of Persons with Disabilities.

Jordan published all the conventions mentioned above in the official gazette, which means that it has become a part of the Jordanian law in force, and it should be applied and respected by the various Jordanian authorities, in addition to the public at-large.

The basic principle governing these conventions is that they require all people under the jurisdiction of the countries party to these conventions to enjoy the rights stated in the convention without discrimination based on national origin, nationality, language, legal status, or any other reason. Migrant workers in Jordan, whether regular or irregular, enjoy the rights recognized by all the above mentioned conventions except for the political rights. For example, they should not be subjected to torture or any other kind of mistreatment, cruelty, inhuman or degrading treatment, unjust trial, economic or sexual exploitation, forced or illegal depriving of freedom, or inhumane detention. They also should not be deprived of their religious rights, their right to health, education, or fair and acceptable working conditions. Note that these rights are applicable for them as well their families.

The protection stated in the various human rights conventions mentioned above is considered the minimum level of protection. The countries concerned, including Jordan, should not neglect or limit rights, whether in national legislation or in executive, administrative or legal practices. They are obliged to respect the rights assured for people under their jurisdiction and so should avoid any behavior that might deprive them from their recognized rights. The party countries are obliged to protect and insure these rights, prevent the public from violating them or depriving others from enjoying these rights, and provide appropriate remedies in cases where rights are violated. This commitment is also a major part of identifying the range of legal protections for migrant workers.

Under the human rights conventions, Jordan commits to provide remedies and compensation for everyone whose rights were violated. The remedy process includes enabling the victims to receive fair and quick compensation for the damage that they suffered from the violation. For example, the Committee against Torture mentioned this issue in its closing statement in the second periodic report on Jordan issued on 25/5/2010. They linked the situation of domestic migrant workers to Statement 16 from the United Nations Convention against Torture, in which the party countries' commit to prevent any kind of harsh, inhumane or degrading treatment or punishment. The Committee advised Jordan to reinforce its efforts that aim to prevent violence against domestic migrant workers, including by ensuring that employers and recruitment agencies that hurt these workers go to court.

The Human Rights Convention, to which Jordan commits, forms an important frame of reference for this study as it includes the basic standards that should be respected for migrant workers, even irregular workers. According to international human rights law, it is unacceptable for these workers' rights to be less protected than any other humans'.

International labor conventions

In addition to the international human rights system, which provides a useful reference to determine the appropriate situation for migrant workers, the International Labor Organization (ILO) Conventions are a complimentary reference and they define a number of issues related to recruitment and labor rights.

Jordan joined many international labor conventions, including the following: Convention No 98 Concerning the Right to Organize and Collective Bargaining (1949), Convention No. 100 Concerning Equity in Wages (1950), Convention No. 111 Concerning Discrimination in Recruitment and Vocation (1958), Convention No. 122 Concerning Labor Policy (1964), Convention No. 135 Concerning Workers Representatives (1971), Convention No. 144 Concerning Tripartite Consultation (International Labor Standards) (1976), Convention No. 147 Concerning Merchant Shipping (Minimum Standards) (1976), Convention No. 150 Concerning Labor Administration (1978), and the conventions related to the equity in treatment of nationals and foreigners in social security.

There is no doubt that a number of international labor conventions are applicable to regular and irregular migrant workers. It is worth mentioning that Jordan did not ratify a number of the major international labor conventions related to protecting the irregular migrant workers such as the following: Convention No. 87 Concerning Freedom of Association and Protecting the Right to Organize (1948), Convention No. 97 Concerning Migration for Employment (1949), Convention No. 129 Concerning Agricultural Labor Inspection (1969), and Convention No. 181 Concerning Private Employment Agencies (1997).

The international conventions that Jordan did not ratify

Jordan has not joined the United Nations Convention for the Protection of the Rights of the Migrant Workers and Members of Their Families (1990), which is the most important and comprehensive international instrument protecting migrant workers' rights. It is difficult to say that a country that is not a party to this convention can provide the adequate guarantees of protection of rights for migrant workers and their families. The Jordanian legal framework will not be complete or provide sufficient protection to regular and irregular migrant workers unless it commits to this convention.

This convention is considered one of the main human rights agreements, and its preamble stresses the interdependence between the convention and the core United Nations instruments related to human rights. It further notes the relation to the principles and standards mentioned in the relevant instruments approved by the ILO.

The convention includes a list of the main and important legal provisions related to protecting migrant workers and their families' rights. Although the number of party countries to this convention does not exceed 43 countries, it could be argued that part of the rights guaranteed through this convention have become a part of customary international law, especially the rights and provisions that are similar to those stated in other human rights conventions and ILO conventions.

Judging the reality of the situation for irregular migrant workers in any country should be measured against the principles established by this convention, especially since a large part of these principles and measures are considered a part of the customary international law

non-party countries. Therefore, the provisions in this convention are an important reference for this study, which seeks to understand, analyze and evaluate the irregular migrant workers' situation in Jordan.

The priority of the international conventions over Jordanian law

This study was based mainly on the principles and measures mentioned in the international conventions related to human rights, labor standards, and migrant workers, which are used as a frame of reference to evaluate the irregular migrant workers situation in Jordan. This reference is logical and essential because, as mentioned earlier, these conventions provide the minimum level of protection that countries should provide. In other words, the acceptable conditions and situation for the irregular migrant workers are derived from the international legal system.

The other important reason behind relying on the international legal framework is that in the Jordanian legal system international conventions and treaties have a higher standing than the domestic Jordanian laws. Although the Jordanian constitution does not address the status of international conventions in Jordan's legal system, the jurisprudence of the Court of Cassation of Jordan agreed decades ago about the priority of international conventions (after they are published in the official gazette) over Jordanian national legislation. This means that the principles and measures mentioned in international conventions have priority if any provisions that conflict with Jordanian law. The supremacy of international conventions in Jordan is the cornerstone of research studies on the migrant workers situation in Jordan.

Jordanian legislation

The Jordanian legal system includes a number of laws, regulations, and instructions that should take into consideration when studying the irregular migrant worker situation. It is important to investigate this legislation because it itself can be the cause of many of the problems faced by irregular migrant workers.

There is a variety of legislation in Jordan, including constitutional rules, national laws, regulations, and instructions. The Jordanian Constitution recognizes a number of rights and freedoms that benefit workers, including irregular migrant workers, such as equality and the prohibition of discrimination, personal freedom, the right to litigation, and access to the courts.

With regard to regular litigations, we can summarize the most important legislation as follows: The Civil Law, Labor Law, Social Security Act, Penal Code, Human Trafficking Prevention Act, Law on Residence and Foreigners' Affairs, and the Law on the Abolition of Slavery. Additionally, some other legislation provides protection to migrant workers in certain sectors.

The vast majority of the laws mentioned above include a number of legal provisions applied to both regular and irregular migrant workers. According to the Jordanian Labor Law No. 8 (1996), a worker is defined as, "every person, male or female, who performs a job for a paid amount and shall be subordinate to the employer and under his/her command..." In its third article, the law stresses that its provisions are applied on all the workers, regardless if the worker is not Jordanian, and without any relation to the legal status of the worker. Therefore, the provisions of the Jordanian labor law and its statements about labor rights should apply to all workers – whether they are Jordanian or foreign, regular or irregular.

It is notable that Article 12 of the Jordanian Labor Law banned the recruitment of any foreign worker without the approval of the Minister or his/her delegate and with the following conditions: the work requires certain experiences and qualifications that do not exist in the Jordanian labor market, the foreign worker receives a work permit from the minister or his/her delegate for one year subject to renewal, and the permit tariffs are collected from the employer. This article considers recruiting a non-Jordanian worker without a work permit or in a vocation different from that permitted a violation to the provisions of the labor law.

It is clear that although the Jordanian labor law considers recruiting an irregular migrant worker a violation to the provisions of the labor law, it does not consider it a reason to deprive the worker of his/her rights stated in the law.

With regards to the Social Security Act, the law does not require the beneficiary of social security to be a legal worker; it only requires that the worker is employed in an organization that is subject to the law and the worker has a work permit. Irregular migrant workers, regardless of their residency status, are required to subscribe to social security as long as they work in an institution that is subject to the social security law and has work permits. In fact, if the practices of the social security organization comply completely with the provisions of the law, subscribing to social security has nothing to do with the legal status of the migrant worker. But, practically, it is rare that a worker without a working permit has a residency permit.

The Law on Residence and Foreigners' Affairs (1973) is one of the most important laws related to irregular migrant workers' situations. This law stipulates that the foreigner shall enter the country in a legal way through land, water or air, and shall have a visa. Article 16 of the law prevents recruiting any foreigner unless he/she has a residency permit to stay in the country. The law states that the residency period should be one year, which may be renewable, and the Ministry of the Interior may grant a residency permit for five years to every foreigner who has legally resided in the country for ten years.

Article 35 imposed a fine of 50 – 70 JDs on every employer who recruits a foreigner without a residency or work permits (charged for every irregular worker). However, Article 34 imposes a fine on every foreigner who illegally entered the country (through infiltration or smuggling) and did not get a residency permit, or exceeded his residency period, or did not apply to

renew the permit for a period not more than one month of the date of its expiration. The fine is 45 JDs per month and 1.5 JDs for every day from part of a month.

In addition to the laws mentioned above, there are some rules and regulations that are closely related to the irregular migrant workers situations such as the following: Regulation of Domestic Workers, Cooks, Gardeners and Similar Categories; Regulation for Organizing Private Offices Bringing and Employing Non-Jordanian Domestic Workers; Regulation of Employment Permits Fees for Non-Jordanian Workers; Regulation of Labour Inspectors; Conditions and Procedures of Bringing and Employing Non-Jordanian Workers; Instructions for the Conditions of Bringing and Employing Non-Jordanian Workers in the Qualified Industrial Zones (QIZs); as well as the regulations related to the minimum wage and professions closed to non-Jordanians.

There is no doubt that the abovementioned rules and regulations are relevant to the irregular migrant workers' situations. For example, the regulations regarding closed vocations may lead to irregular labor, since it prohibits recruiting foreigners for the vocations included on the list.¹ In practice, migrant workers will work in the closed vocations illegally due to the impossibility of obtaining a permit. Additionally, recruiting migrant workers to these vocations will cost businesses less than employing them in open vocations.

The minimum wage regulation² sets the wage as at least 150 JDs, except for workers in the garment industry, domestic workers, chiefs, and gardeners, who can receive as little as 110 JDs. We do not intend in this study to analyze the effect of the minimum wage on the irregular migrant workers situations, but it is predictable that this particular group of non-Jordanian laborers is usually paid less than the minimum wage set by the regulation.

One of the regulations that affect irregular migrant workers is the Rules and Regulations for Recruiting Foreigners and its Amendments (2009), which do not apply to domestic workers and workers in the clothes industry. Article 10 of this regulation obligates the recruitment of foreign workers based on market need, while taking into consideration the closed vocations.³ This means that while a worker may be recruited with a contract of two years, the work permit may not be renewed after the first year.

Article 11/b of the regulations note the obligation of the employers to immediately inform the relevant directorate (the directorate in which the permit was issued) if a foreign worker leaves the work or runs-away while the work permit is still valid. Notably, paragraph (c) of the same article obligates the foreign worker to inform the directorate that issued the work permit as soon as he/she leave work while the permit is still valid. If the worker fails to do so he/she will not be granted a work permit for any other employer.

¹ The closed vocations list includes the following: medical jobs, engineering jobs, administrative, accounting and editorial jobs including typing, secretarial, operations, delivery, procurements, selling with its various kinds, barbershops, decoration, education, except when there is a lack of Jordanian substitute, fuel business in the main cities, electricity, mechanic and care repair, drivers, guards, office boys, and building servants.

² The minimum wage regulation was issued on 14/10/2008.

³ Article 10/1 of the Rules and Regulations for Recruiting Foreigners and its Amendments for the year 2009 published on page 4197 of the official gazette number 4976 on 16/8/2009

In cases where the directorate is informed, the foreign worker cannot receive a work permit for another employer unless the first employer approves. Article 12 of the regulations also includes a number of statements that restrict transferring a foreign worker from one employer to another. All the statements have a significant impact, often negative, on the migrant workers' situations and their legal status in Jordan. These clauses block workers from their right to choose their work, which leads them to run-away to change jobs or employer, and thus become an irregular migrant worker.

This study also considered the Regulation for Domestic Workers, Cooks, Gardeners and Similar Workers. This regulation obligates the employer to pay the costs of a residency permit, work permit, and a travel ticket for the worker after two years. Notably, the Residency and Foreigners' Affairs Law punishes the worker – not the employer – for the employers' negligence to renew the residency permit for the worker. This law imposes fines on the worker even if it is the employer's fault. The regulation also states that domestic workers have a right of a weekly day off, paid sick leave, and annual vacation of 14 days per year. The regulation allows for the inspectors to inspect the residence the worker occupies upon receipt of a complaint and after the approval of the owner of the house. It also sets the daily hours of work at ten hours, which is a clear violation for the labor law itself that states that the domestic workers should work for only 8 hours. It is obvious that the protection provided in this regulation is insufficient, especially since it does not include serious guarantees that the employer will renew the work permits for their workers. It is worth mentioning that the Protection Against Domestic Violence law in Jordan does not include the domestic workers. This omission is a significant shortcoming that may exacerbate migrant workers' situations, and may lead some workers to become irregular.

Jordanian authorities should eliminate any legislative articles that contradict provisions of international conventions related to irregular migrant workers. In the case that authorities do not officially amend legislation to comply with these conventions, the legislation should be interpreted and applied in light of the international conventions.

Conclusions

It is clear that the overall legal rules and practices in force in Jordan still do not result in a legal framework based on complete equity between the migrant workers and nationals regarding human rights, nor does the implemented laws deal with irregular migrant workers on the basis of equality. In addition, the national legislation contributes to increasing irregular migrant labor. Even if it appears that explicitly there is equity between migrant workers and nationals – especially when the differentiation occurs based on the field of work itself and not the nationality – the rules and regulations in force lead to inequality. Although domestic workers benefit from being under the umbrella of the Labor Law, there are some rules and regulations that degrade their rights in clear contradiction and violation of provisions of the Labor Law.

The Jordanian legal framework does not address or provide mechanisms to protect a number of rights that must be guaranteed and respected for migrant workers. Significantly, the Jordanian legal system lacks some legal rules and best practices when it comes to dealing with irregular migrant workers and correcting their irregular status. The legal system in Jordan and actual practices view irregular workers as criminals who committed a crime, by their illegal entry to the country or their lack of commitment to their permitted work. It also does not recognize that they have the right to choose their work or to live under fair and just working conditions.

Perhaps the most detrimental aspect of the legal framework related to migrant workers is the absence of the most comprehensive international instrument that protects migrant workers: The Convention for the Protection of the Rights of Migrant Workers and Their Families. The Jordanian legal system will not be able to respond to the needs of the irregular migrant workers unless Jordan joins the convention and publishes it in the official gazette. Until then, the three Jordanian authorities (judicial, legislative, and executive) should pay attention to the international norms the agreement outlines, which apply to both regular and irregular migrant workers. Indeed, the vast majority of the provisions in this convention comply with those stated in the different human rights conventions, which has become a part of the customary international law binding both party-countries and non-party countries. This fact is taken into consideration in this study, as the customary international legal framework includes the provisions stated in The Convention for the Protection of the Rights of Migrant Workers and Their Families, which are also applied on the irregular migrant workers.



Undoubtedly, the phenomenon of the irregular migrant workers has common causes and features in all countries, but it is also distinguished by country-specific characteristics and the variation of cultural, social, economic and legal contexts from one country to another. For this reasons, the study does not focus on the common factors and features among countries in order to understand and analyze the phenomenon of irregular migrant workers in Jordan. A different study should analyze the nature and significance of the general factors to the context of irregular migrant labor in Jordan.

However, this study will address the following key issues and themes:

- Why do irregular migrant workers exist in Jordan?
- What are the main motives of these workers coming to Jordan?
- How do the public authorities deal with them? Do they treat them as criminals?
- What are the vocations that they occupy?
- Statistics and distribution of migrant workers

How does a migrant worker become "irregular" in Jordan?

The majority of the irregular migrant workers in Jordan are from Arab countries (Egypt and Syria), because the strict terms regulating visas for non-Arabs and the application of a system of sponsorship makes it more difficult for them to enter the country irregularly. (Although the term "sponsor" is not used in the law, but the power of the employer over the employee makes him/her a sponsor.) For example, the Egyptian workers form about 70 percent of the total sum of migrant workers in Jordan.

The reasons for the presence of irregular migrant workers are various although most are related to the laws, rules, and regulations organizing migrant workers in Jordan, such as the terms of recruiting workers and renewing their residency. These reasons are stated below:

The national view for Arab migrant workers

The ideological way in which Jordan deals with migrant labor coming from Arab countries, such as Syria and Egypt, is one of the reasons behind the existence of the irregular migrant workers in Jordan. Since most Arabs did not need a visa to enter Jordan, the migration of Arabs to Jordan was not restricted. Hence, Syrians and Egyptians did not need a visa to enter Jordan, and they were allowed to reside in Jordan without a residency permit until 1984. However, they became irregular if they stayed without a residency permit after 1984.

Continuing to reside in Jordan after the residency permit expires

In principle, residing in Jordan is conditional and set at one year with exceptions that may not apply to the migrant workers. It is striking that both the Residency and Foreigners' Affairs Law and the Labor Law sets the residency and work permits period as one year for migrant workers. However, most migrant workers' contracts are for longer periods, especially those for domestic workers (usually 2 years) and workers in the Qualified Industrial Zones (usually three years). In practice, the workers are recruited for two years, while their residency permits are for one year only, which can easily leads the migrant workers to become irregular if the employer neglects or refused to renew their residency permits. The laws and regulations in Jordan require that the employer renews both the residency and work permits.

It is not always the case that the causes of workers remaining in Jordan after their residency and/or work permits expire are out of their control. Despite that, most of the cases investigated in this study show that the workers' irregularity was due to the employers' delays in renewing the residency and/or work permits. Some of the cases showed that there are some migrant workers who want to stay in Jordan, and correct their irregular status after the expiration of their residency and work permits.

The employer does not renew the residency and/or work permits

As noted, one of the common reasons for regular migrant workers to become irregular in Jordan is that the employers do not renew the workers residency and/or work permits. According to the Residency and Foreigners' Affairs Law, the Labor Law, and the Rules and Regulations of Recruiting Foreign Workers and Its Amendments (2009), employers are required to renew the migrant workers' residency and/or work permits. Most of the cases studied showed that the employers do no renew the residency permits for their migrant workers, especially domestic migrant workers and construction workers.

According to the cases studied, we can say that there is a phenomenon of irregularity among domestic workers and workers in the construction sector is caused mainly by the employers' failure to renew their residency permits.

The authority's discretion regarding the renewal of the residency and/or work permits:

Article 10 of the Rules and Regulations of Recruiting Foreign Workers and Its Amendments (2009) states in its first paragraph that, "The migrant workers are recruited and their work permits are renewed based on the market needs taking into consideration the closed markets." The Residency and Foreigners' Affairs Law also allows the renewal of residency to be arbitrary, without taking into consideration the nature or duration of the workers' recruitment contracts.

The renewal depends on the discretionary authority of the public authorities and parties

concerned, who may refuse to renew the residency and/or the work permits after a year, and the worker may continue to work but with an irregular status. Despite the scarcity of the cases caused by this scenario, it is plausible theoretically, and such cases have actually been noted.

Running away caused by the mistreatment of the employer

The cases studied revealed that an enormous number of the regular migrant workers have become irregular because they run-away from their employer as a result of the employers' violence or ill-treatment, or the unfair situations that he/she worked under.

This scenario applies specifically to the domestic workers; the cases that were studied showed that this category of migrant workers are subject to harsh, inhuman, and/or degrading treatment – such as hitting and violence, deprivation of food or sleep, long and exhausting working hours, etc. – which may lead them to run-away from the employer and look for a more humane, fair place. Additionally, a significant number of the workers studied did not receive their wages, which was a main reason for them to leave their employers.

It is worth emphasizing that one of the main reasons for the regular migrant worker to become irregular is mistreatment of the worker. The prevalence of mistreatment of domestic workers causes them to escape to another work either part-time or full-time.

The irregular worker transferring to a new employer or field of work

The sponsorship system defined in Jordanian legislation makes the employer responsible for the employee, and makes the employee actually and legally attached to the employer, who is responsible for renewing the worker's residency permit. Additionally, the employer has the authority to allow the worker to transfer to a new employer or work provided that he/she give the worker up, and the migrant worker's job security is dependent on the limited work contract that legally prevents him/her from transferring to another employer or work unless certain terms were met, such as the employer's waiver of the employee. This system and contract prevents the long-term social interaction for migrant workers in the Jordanian society.

Article 12 of the Rules and Regulations of Recruiting Foreign Workers and Its Amendments (2009) includes some terms that completely restrict domestic workers and workers in the textile industry from the freedom to transfer from one employer to another. These restrictions deprive the workers' of the right to choose their work, and leave the door open for a migrant worker to work under abusive conditions similar to slavery. Although Article 12 relaxed the constraints of movement of other migrant workers from one employer to another, the exclusion of domestic workers and the workers in the textile industry is unjustifiable and makes them vulnerable to severe mistreatment.

The strict legal framework regulating workers' transfer to another employer – especially domestic workers and workers in the QIZs – leads workers to transfer illegally by running away, which results in them becoming irregular migrant workers.

Transferring from open professions to closed ones

Another reason that contributes to the existence of irregular migrant workers in Jordan is the list of jobs closed to foreigners. At times, an employer will officially recruit a worker for a non-closed job, but then after arrival, he/she works in a closed job. Alternatively, workers themselves may know they want to work in a vocation on the "closed" list. They may enter the country with a contract that lists an open job, and then intentionally switch to an occupation for which they were not officially recruited. In other words, the list of closed jobs contributes to the existence of irregular migrant labor in Jordan. For example, many of the migrant workers stated that they will work in agriculture – since this is an open profession – but once they arrive, they may switch to a closed job without the employer's awareness. One of the known practices in this context is called "freeing," in which a migrant worker pays the employer that recruited him/her about 600-1000 JDs to set him/her, thereby allowing him/her to work illegally in another job or for another employer.

Preferential fees for work permits in certain vocations

The regulations concerning work permits fees and recruitment in some vocations – such as agriculture – have preferential treatment. This leads some employers and workers to pursue work permits for jobs whose fees are less, regardless of if they work in this field. In this case, the desire to save money causes the worker to become irregular if they work in a job for which they do not have permit.

Irregular entry through forged documents

It is not easy for migrant workers to become irregular in Jordan through illegal entry into the country because of the strict system of procedures that control entry to Jordanian territory. This study did not include any cases of illegal entry into the country through forged documents, though rare cases likely do exist. It is possible that some migrant workers enter Jordan through deception or forged documents, and it may be difficult for Jordanian authorities to check the validity of all documents, especially in cases of trafficking in persons.

Being born to an irregular migrant worker father

Another possible reason for a person to become irregular is by being born to an irregular migrant father. This scenario is hypothetical and may not be prevalent in Jordan, although it is a cause of many cases of irregularity in other countries. It is difficult for migrant workers to stay in Jordan for long periods of time, and the economic and social living conditions of workers makes it impossible for families to accompany male workers permanently.

Withdrawal of citizenship

One of the other important factors that contribute to a worker becoming irregular in Jordan is the withdrawal of the father's citizenship/nationality, which in turn leads to the withdrawal of the wife and children's citizenship. Withdrawal of the citizenship has become a common practice in Jordan that has led many families and workers to become irregular.

Some of the cases included in the study showed that the withdrawal of Jordanian citizenship from the father legally and actually affects the entire family's situation. This practice affects the fundamental rights of the members of the family and can cause them to have very bad living conditions.

In conclusion, the cases that were studied revealed the fact that the majority of the irregular migrant workers entered Jordan in a legal way, through a visa or a working contract, but became irregular later on. It is quite rarely for a worker to enter Jordan illegally.

Motivations for coming to Jordan

The cases studied and the sample surveyed indicated that main factors that force migrant workers to come to Jordan are the following:

- a- Getting a job to ensure their own livelihood and standard of living.
- b- Providing for their families in their own countries by sending remittances that can help improve their standard of living.
- c- Finding a safe haven (especially for the Iraqis who suffer from insecurity in their own country).
- d- Joining their families that live in Jordan.
- e- Escaping political persecution in their home countries

The abovementioned list gives all major factors for migration to Jordan, but the majority of migrant workers come to Jordan for economic reasons. Ironically, the legal conditions imposed on migrant workers who wish to correct their irregular status – specifically imposing fees on the worker when the employer is actually at fault – counteract the workers' main objective of coming to Jordan.

Do the public authorities treat them as criminals?

Irregular migrant workers are treated as criminals in the Jordanian law, especially in the framework of the Residency and Foreigners' Affairs Law. Article 31 of this law treats irregular migrant workers who enter Jordan without a visa as criminals, and it permits arresting irregular workers without a warrant and holding them before the administrative governor, who decides whether to deport them, give them a residency permit, or transfer them to the magistrate court. If the magistrate court convicts them, then they are confined for 6 months and/or must pay a fine of 10-50 JDs. The article also allows, according to the discretion of the administrative governor's delegate, providing the irregular migrant worker a residency

permit. Alternatively, the migrant worker could be taken to criminal court as a criminal. The Jordanian Penalties Law includes a statement that criminalizes the irregular entry to the country. It is important to mention in this context that a common practice in Jordan is that employers report their worker to the police stations when they run-away. If the employer refuses to take their worker back after they are arrested, then he/she could be under administrative detention for an unlimited period without trial. The detention period in the police stations may extend for a period longer than the 24 hours set in the law, either on the basis of “administrative detention,” or by transferring the worker to other police stations to stay for another period and so on. The arrested migrant worker, in order to be released from detention, sometimes resorts to a Jordanian national to sponsor him/her and release him/her afterwards. The worker pays the sponsor, and in most cases, the worker is exploited by the sponsor and remains at his mercy.

Furthermore, Articles 34 and 36 from the same law are crystal clear when describing the criminality of irregular migrant workers. Article 34 imposes financial fines on those who do not obtain a residency permit or who exceed the residency permit's period without applying for a renewal within a month of its expiration. Article 36 includes a general provision that emphasizes that the irregular migrant worker is viewed as a criminal, especially when it states that everyone who violates the Residency and Foreigners' Affairs Law will pay a penalty of either detention for a period between a week and a month and/or by paying a fine.

The Jordanian legal system deals with irregular migrant workers as criminals who violated some penal provisions and regulations. The actual practices align with this perspective, since most of the cases studied resulted in imposition of fines at a minimum, and a large number of workers were deported.

In this context, we should note that there is a group of countries that do not treat irregular migrant workers as criminals, such as Austria, whose laws and regulations state that irregular migrant workers only violate administrative (not penal) provisions.¹

We would like to emphasize that irregular migrant workers in Jordan are subject to deportation without considering the rules and regulations stated in Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment. This article prohibits the party countries from deporting any person under their jurisdiction to any country where the person may be subject to torture or mistreatment. The executive and legal authorities are obliged to investigate to ensure that there are no reasonable grounds that they would be subject to abuse before the person is deported. This commitment seems to be ignored in most deportation cases.

Related to this issue, we should note that most of the European Court for Human Rights verdicts ruled in favor of the person who was being deported if he/she was had an illness that the country to which he/she was being deported did not provide medical care of the same

¹ A. Karler and D. Teichel, “Counting the Uncountable, Data and Trends Across Europe – Austria Report, 2008.”

quality as the country in which he/she was. This may be the case for diseases that cause a lot of pain, as deportation would be considered harsh, inhumane treatment.¹

Since irregular migrant workers may not be able to open bank accounts, they may resort to using forged documents to open such accounts, which will inevitably expose them to criminal prosecution. The workers may also resort to transferring a fixed amount of their money to another person.

One of the issues that attract attention is that some of the irregular migrant workers register their children's names as names of other, regular women in Jordan. This is punishable by Jordanian law, but it was committed as a direct result of the worker's irregular status in Jordan. In some cases, the migrant worker may want to leave to her home country, but she is unable to take her child with her because the child is registered under another name. While such cases are quite rare, they have occurred. We mention the issue to stress the point that treating irregular migrant workers as criminals may lead them to commit prohibited acts that make them subject to criminal courts, perpetuating their criminalization. Some of the cases that were studied show that irregular migrant workers are often in situations in which they are easily exploited, and they may be subjected to human trafficking (either sex trafficking or forced labor). Female irregular migrant workers may be exploited in prostitution, which can make them subject to prosecution despite being victims of trafficking in persons.

The circumstances for recruiting irregular migrant workers

The various cases involved in this research indicate that irregular migrant workers in Jordan are recruited in various sectors, including agriculture, building guards, construction, domestic work and cafes.

Irregular migrant workers are usually recruited for low wages in unfair and unsatisfactory circumstances that put the workers at risk of high levels of exploitation. The irregular migrant workers work for long hours and do not have vacation or any overtime pay, which contributes to cases of forced labor. When employers recruit irregular migrant workers, they are able to exercise more authority than they do with regular workers, because the irregular workers' stay and residency are dependent on the employer. The employers' extreme power may lead to forced labor.

Unfortunately, the legal provisions stated in the Labor Law and the Residency and Foreigners' Affairs law may contribute to a regular migrant worker's status becoming irregular. Since these two laws provide the employer with huge powers, he/she may not renew residency or work permits for their legal migrant workers, causing their workers to become irregular, and hence, subject to greater exploitation.

¹ Frederic Sudre, "Droit International et Europeen dey drity de l'Homme." Pary: PUF, 2011, PP. 423etss.

In summary, the cases studied revealed that a large number of migrant workers, especially domestic workers, became irregular because the employer him/herself did not renew the worker's residency and/or work permits. Additionally, a number of cases were a result of a domestic worker running away from the employer's house because the employer refused to pay monthly wages for the worker, and sexual harassed the worker in some cases. The workers then sought part-time jobs in which they were subject to mistreatment and exploitations. With regards to irregular workers in QIZs, some factories do not go through the process of issuing residency and work permits for every migrant worker they recruit. In that case, the worker is in a vulnerable situation and may be deprived of work without options for redress because of the possibility of his/her deportation.¹ Additionally, not issuing work permits prevents the migrant workers from their right to social security.

Statistics and distribution of migrant workers

It is not easy to identify the number of irregular migrant workers in Jordan, although the Minister of Labor stated in May 2011 that there are around 600,000 migrant workers in Jordan, while the number of registered migrant workers is half that number. It is very difficult to count irregular workers, and the exact number remains unknown.

According to a 2008 study by the Consortium for Applied Research on International Migration (CARIM) about the irregular migrant workers in Jordan,² there are three types of irregular migrant workers in Jordan: migrant workers, migrant refugees, and transit migrants. The study stressed that although there is no accurate data on the numbers of irregular migrant workers in Jordan, there are tens of thousands of people who work without any work permit.³ According to the study, there are 256,000 male migrant workers with permits and 48,000 female migrant workers with permits, totally 314,000 workers. These numbers are consistent to the figures compiled by the Ministry of Labor, which estimated in its 2009 report that there are 335,707 registered migrant workers in Jordan. They estimated that regular labor makes up 76 – 81 percent of the total migrant labor force. The Ministry of Labor figures indicate that the number of unregistered migrant workers estimated between 19 – 24 percent of the total migrant labor force amounting to 77,000 – 90,000 workers.

Regarding the distribution of migrant labor in the Jordanian cities, the CARIM Center report indicates that 50.97 percent of them are located in Amman, 10.25 percent in Zarqa, 11.54 percent in Balqa, and 9.99 percent in Irbid. The Ministry of Labor data shows that the sectors that recruit migrant workers most often are the agricultural and fishing sector (26.74 percent) and the social and personal services sector (25.56 percent).

¹ Tamkeen Center for Legal Aid and Human Rights. "The Weakest Link: Migrant Workers in the Sectors of Domestic Work and QIZs in Jordan." 2010. P. 29.

² Arouri, Fathi. "Irregular Migration in Jordan: 1995-2007." CARIM, 2008

³ Ibid, P.7.

With regards to the distribution of migrant workers in Jordan according to the nationality, the majority of migrant workers are Egyptian workers, making up 71.49 percent of the migrant labor force, according to the Ministry of Labor. Indonesia workers make up 8.03 percent; Sri Lankan workers follow at 6.15 percent, and then Filipino workers at 4.35 percent.

Other than general estimated percentages of irregular migrant labor in Jordan, the Ministry of Labor report does not include additional information or an exact number of irregular migrant workers in Jordan, due to the difficulty of counting irregular workers. Adding to that difficulty, countries sometimes differ in their definition of irregular migrant workers, with some definitions including "partial irregular migrant workers," who resides legally in a country but work in a job other the one permitted for them.¹



¹ An indication of the large variation of estimates of irregular migrant workers is that the estimate number in European Union countries is 2.8-8 million workers, and the world estimate is between 20-30 million.

The main challenges facing irregular migrant workers in Jordan

The cases included in the study and the questionnaire revealed a number of problems and difficulties from which irregular migrant workers suffers while they are in Jordan.

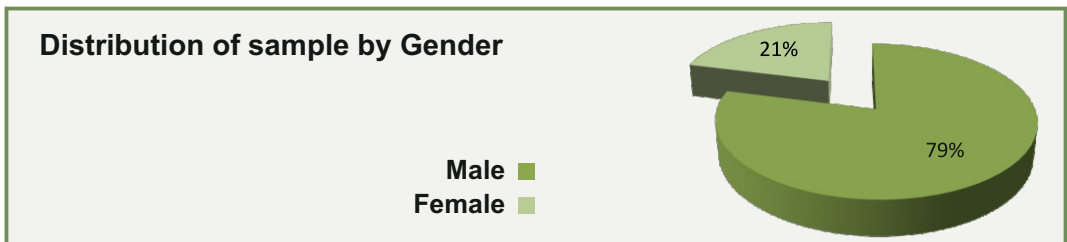
It is important to note that the data gathered from the questionnaire should not be viewed as actual statistics, but as indicators of how irregularity spreads and the general work situations and violations faced by irregular migrant workers. The study investigated a targeted sample, which does not allow for an inductive report of the results that can apply it on all migrant workers. With that caveat, the study identified the following main challenges facing irregular migrant workers: the quality of their living, social and economic situations; their access to fundamental human rights; increased possibility of their exploitation including being subject to trafficking or forced labor; and their marginalization from Jordanian society. These main problems will be discussed together based on the two sources of data collected: the problems revealed by the questionnaire and the problems revealed by the cases studied apart from the questionnaire.

The problems revealed by the survey and case studies investigated by this study

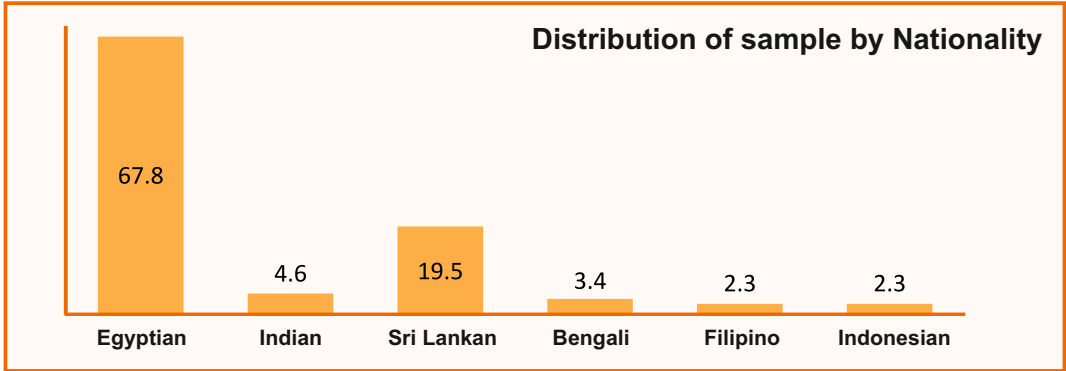
As mentioned in the introduction of this study, a questionnaire was distributed to a sample of irregular migrant workers. Below, we present the main challenges facing these workers in Jordan and describe the common problems that were identified by both the questionnaire and case studies.

Sample features and demographic description

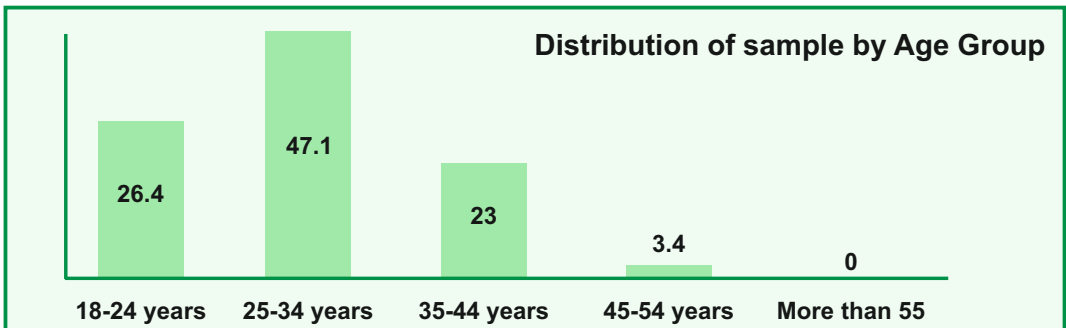
The sample consisted of 87 cases, with 79.3 percent male and 20.7 percent female cases. The following figure shows the distribution of the labor according to gender.



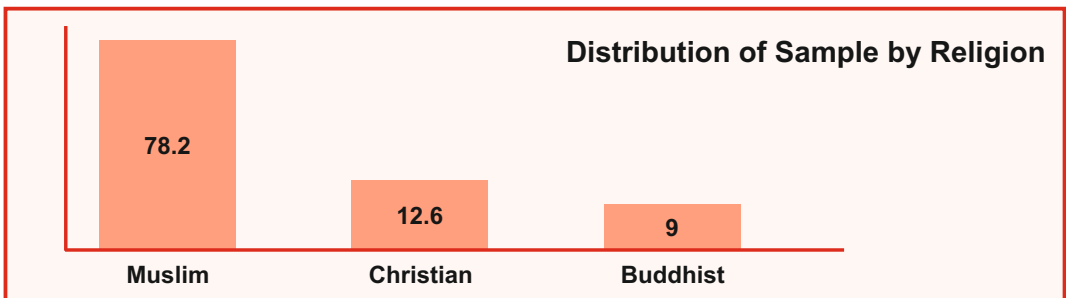
Of the 87 cases, Egyptian migrant workers formed 67.8 percent of the sample, Sri Lankan workers formed 19.5 percent, Indian workers 4.6 percent, Bengali workers 3.4 percent, and the Filipino and Indonesian worker, formed 2.3 percent each. The following figure shows the distribution according to nationality.



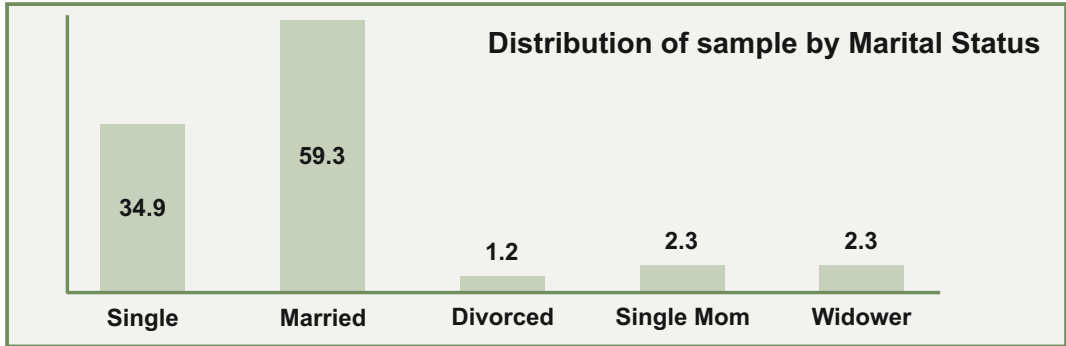
In terms of age, youth (under 35) formed the majority of the sample. Those between 25 – 34 years accounted for 47.1 percent of the sample, those 18-24 years formed 26.4 percent, those 35-44 years formed 20 percent, and those 45-54 years formed 3.4 percent. No workers in the sample were above 55 years. The high percentage of the sample that are youth is likely a result of the Ministry of Labor requirements that a certain age group is recruited to be migrant workers. The following figure shows the distribution of migrant workers according to age:



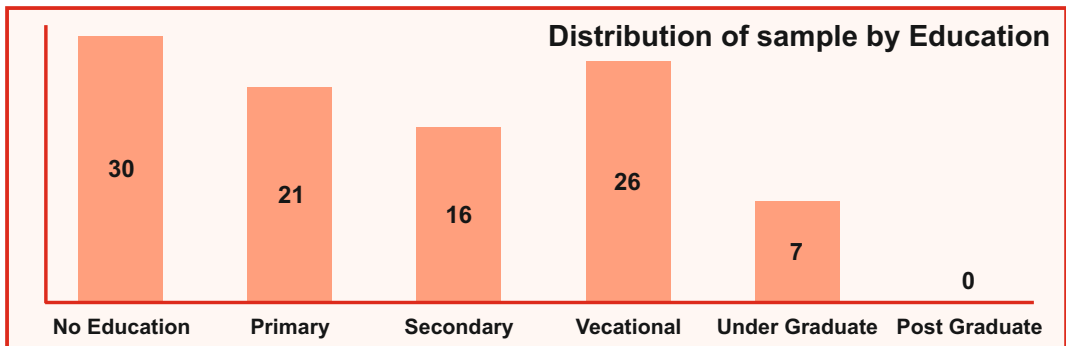
As for the distribution according to religion, the majority of migrant workers were Muslims (78.2 percent), Christians formed 12.6 percent, and Buddhist formed 9 percent. The following figure shows the distribution according to religion:



With regards to marital status, married workers formed 59.3 percent of the sample, single workers formed 34.9 percent of the sample, and widowed and divorced workers formed 2.3 percent and 1.2 percent, respectively. Single mothers formed 2.3 percent of the sample. The following figure shows the distribution according to the social status.

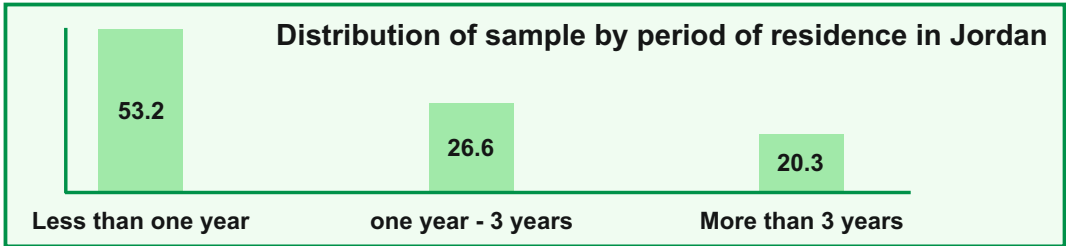


On one side of the education spectrum, illiterate workers form 30 percent of the sample, and on the other side, 7 percent of workers are university graduates. The remainder of the sample is distributed over primary, secondary, or vocational education, as shown in the figure below. None of the sample received post-graduate education.



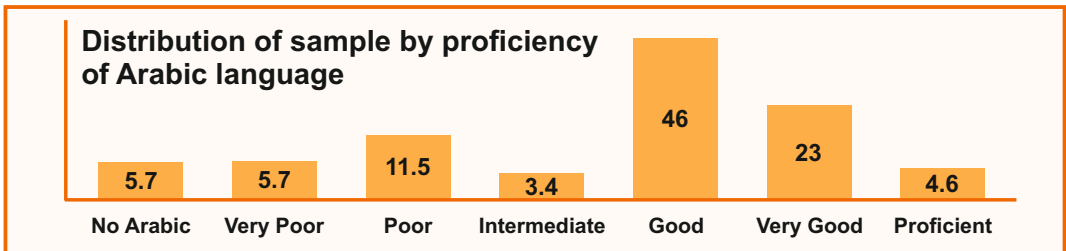
In this context, the high proportion of illiterate workers in the sample studied and the limited number of workers with university degrees reflect the fact that migrant workers in Jordan are mostly limited to workers with low educational levels and limited skills, while Jordanians occupy jobs that requires high qualifications and skills. That is an important factor that causes irregular migrant workers to be highly vulnerable to exploitation, as they do not have opportunities to obtain a better job in Jordan or in their home countries due to their limited education and qualifications.

With regards to the residency period in Jordan, 53.2 percent of the sample spent less than a year in Jordan, 26.6 percent spent between a year and three years in Jordan, and 20.3 percent spent more than three years in Jordan. The following figure shows the distribution according to the residency period:

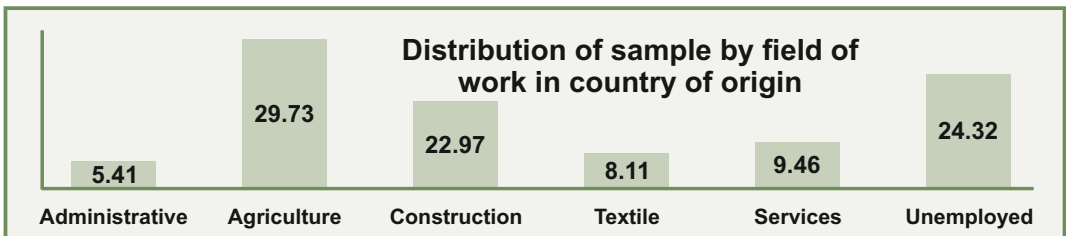


This data is significant because half of the sample spent less than a year in Jordan, which shows that migrant workers can easily become irregular in their first year residing in Jordan. This may mean that they do hold work permits but become irregular due to changing to a job that they were not permitted to perform. For instance, some of them enter the country to work in agriculture since it is one of the non-closed jobs and/or its fines are lower than other jobs, and they then transfer to perform another job. This transfer may be coordinated with the employer.

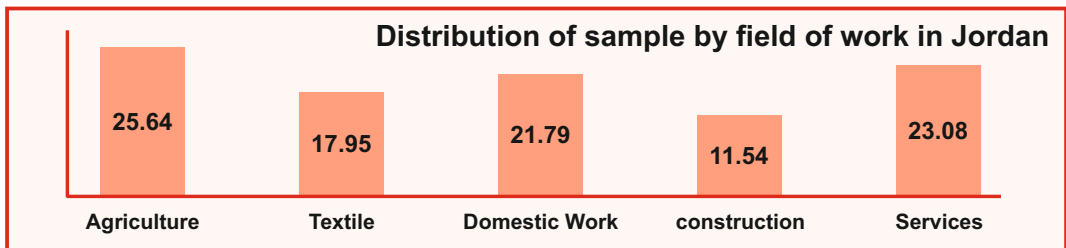
Regarding the sample's distribution according to proficiency of Arabic language, as a result of the large quantity of Egyptian workers, workers who are good, very good, or excellent in Arabic language formed 73.6 percent of the sample. Those who speak Arabic at an intermediate level or less formed 23 percent, and mainly consist of non-Arab nationalities such as Sri Lankans, Bengals or others. The following figure shows the distribution according to Arabic language proficiency:



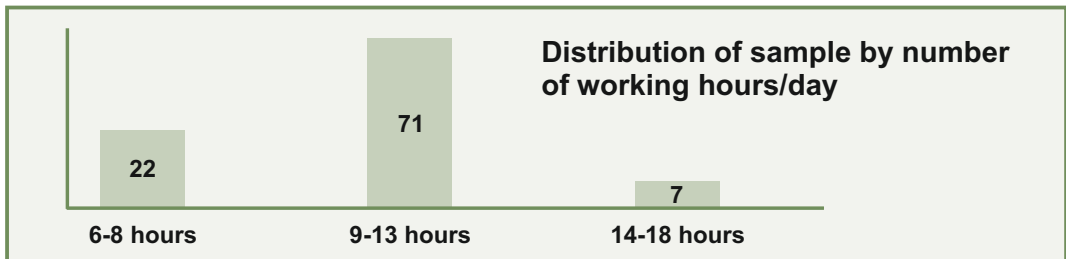
With regards to the field of work in their country of origins, the proportion working in agriculture formed 29.73 percent of the sample, followed by the unemployed at 24.32 percent. Workers who had been in jobs that require advanced degree such as law, accounting or tutoring formed 5.41 percent, and the remaining worked in jobs such as construction, textiles and the service industry. The following figure shows the distribution of labor according to work area in their home countries:



With regards to the current field of work in Jordan, the sample was spread across various sectors. The agricultural sector formed the majority (25.64 percent), followed by the service industry (23.08 percent), domestic work (21.79 percent), the industrial sector, which includes the textile industry (11.45 percent), and construction (11.54 percent). Many workers continued to work in the same fields they had occupied in their home countries, with the exception of domestic workers and office boys, who usually did not work in those fields prior to coming to Jordan. These jobs do not require educational skills or special techniques. The figure below represents the distribution of the sample according to the current field of work in Jordan.



With regards to the average working hours per day, 78 percent of the sample stated that they work over 8 hours a day, with 71 percent working 9 – 13 hours a day and 7 percent working 14 – 18 hours per day. Twenty-two percent worked 6 – 8 hours per day. The following figure represents the labor distribution according to the working hours per day:



Analysis of the sample results

- Ninety-three (93) percent of the sample studied who do not speak Arabic stated that they did not receive any Arabic language courses before arriving to Jordan, and none of them received any Arabic language course once they arrived to Jordan.
- Thirteen (13) percent of the sample studied stated that they do not have a job contract in Jordan, and 19.05 percent do not have residency permits, which means that approximately one third of the sample became irregular due to not renewing their residency permits or having any job contracts. Another portion of the sample became irregular due to changing their job or employer illegally, a result that is corroborated by the results received from the case studies of irregular migrant workers, which was discussed in-depth in the second part of this study. This reason for becoming irregular applies mostly to the Egyptian workers.

- Fifty-seven (57) percent of the sample studies stated that they have children, but the vast majority – 89.3 percent – did not bring their children with them to Jordan for the following reasons: 34.48 percent noted the difficult living situation in Jordan, 24.14 percent due to the disapproval of the employer, 20.69 percent due to the children’s attachment to their schools in their home countries, 6.90 percent due to the disapproval of the Ministry of Labor, and the remaining small percent due to specific family issues such as infant children, the wife’s work in the home country and her disapproval to leave the family in the home country and other reasons. On the other hand, five workers in the sample brought their children, all of whom were enrolled in kindergartens or schools in Jordan.
- Seventy-eight (78) percent of the sample studied stated that they paid money in advance to find a job in Jordan. The amount paid ranged from 100 USD to 2000 USD, with the average 904 USD per person. The fees were paid for the following reasons: 52.27 percent paid to receive a work contract, 15.91 percent paid commission to the recruiting agency, 10.23 percent paid for a medical examination and/or flight ticket, 6.82 percent paid to be issued a passport, and 4.55 percent for visa fees.
- Eighty-seven (87) percent of the sample studied stated that they have a work contract in Jordan: 77.5 percent had contracts that last for 1 year, 15.5 percent were for two years, 5.6 percent for three years, and 1.4 percent of the sample stated that their contracts were unlimited. On the other hand, 75.9 percent of the sample stated that they did not see the work contract before they arrived to Jordan. We investigated if a worker’s nationality affected whether he/she saw the contract before arriving to Jordan, but the two factors were not statistically related.
- Eighty-one (81) percent of the sample studied stated that they have a residency permit, and that the period of the residency is for one year. Ninety-two (92) percent of the workers who do not have residency permits stated that it is a result of the employers not issuing and providing them with such a permit. The other reason noted was closing of factories (7.7 percent). On the other hand, 18.9 percent of the sample stated that they had some fines imposed on them to renew their residency permits. Notably, there is a statistically significant relationship between nationality and permits. Eighty-one percent of Egyptians acquired a residency permit, while only .09 percent of Sri Lankans, .06 percent of Indians, .03 percent of Bengalis, and .01 percent of Filipinos. Indonesians were the least likely to acquire residency permits.
- From the above data, it is clear that the main reason behind the sample studied staying irregular migrant workers is because they changed work or employer, and while not renewing the residency permit is sometimes a reason, it is not the most prevalent one. As for those who become irregular due to not renewing the residency permit, they are often East Asian domestic workers or workers in the QIZs.
- Fifty-five (55) percent of the sample studied stated that they do not work in the same job for which they came to Jordan to work. There was a statistically significant relationship between

nationality and this factor, with Egyptian workers the most likely to work in a different field than they originally planned. They composed 83 percent of the sample that switched fields, compared with Indonesians, who had no cases of switching.

- Thirty-seven (37) percent of the sample studied stated that they plan to stay in Jordan, while 62 percent are not planning to stay. Sixty-one (61) percent of those who are planning to stay hope to remain for five years or less, and 38 percent did not set a fixed time period and plan to live in Jordan for over 5 years. Seventeen (17) percent wish to bring their families to live with them in Jordan, while 83 percent do not wish to bring their families to Jordan. We investigated if nationality was a factor related to workers’ plan to stay in Jordan and found no statistical relationship. The majority of the sample does not wish to stay in Jordan, which reflects their bad living conditions. If they were living in good situations, the percentage wishing to leave may be smaller. This information complies perfectly with the results of the case studies, which investigate their actual living conditions.

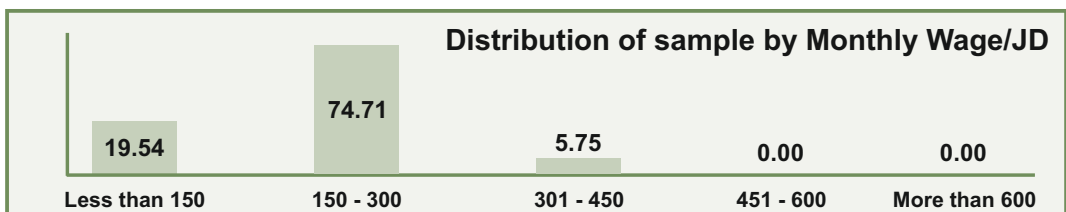
The main problems that irregular migrant workers face obtaining their rights

Freedom of religion and worship

Ninety-one percent of the sample studied stated that they are able to practice their religious rituals. However, when we exclude the Egyptian workers from the sample – who are mostly Muslims – we find that 54.54 percent of the sample who are not Muslims feel that they are not able practice their religion. Seventy-one percent of the non-Muslim sample was Buddhist. The main reason cited for not being able to freely worship was the lack of a place to practice their rituals (71.34 percent), and the employer’s prevention or fear of others, both cited by 14.29 percent of the sample. The significant proportion of non-Muslims who cannot freely practice their religion is noteworthy.

Receiving sufficient wages

Regarding average income or monthly wages, the majority of the sample (74.71 percent) received wages between 150 and 300 JDs/month, 19.54 percent of the sample received wages less than 150 JDs/month, and 5.75 received between 301-450 JDs/month. None of the sample studied received over than 450 JDs. These results show that a large proportion of the sample is receiving at least minimum wage, and may sometimes reach double that figure. This indicates that worker's interest in receiving a higher wage forces him/her to become irregular through the illegal change of work that pays a higher salary. The figure below shows the distribution of the workers according to the average monthly income:



The statistical test revealed a positive relationship between the average monthly income for workers and their residency period in Jordan. Most of the workers who received more than 300 JDs had been residing in Jordan for more than three years, while most of those who received less than 150 JDs resided in the country for less than three years

Also noteworthy is that workers' interest in the amount of their monthly income is higher than his/her interest in the hours spent at work. Workers included in the study mentioned that their first concern is their monthly income, regardless of if they have to work long hours to get it. Thirty-six (36) percent of the sample studied stated that they do not receive their wages regularly. If this is the case, they do the following: 79.1 percent make a complaint to their direct supervisor, 8.96 percent go to the embassy of their country, 4.48 percent make a complaint to the Ministry of Labor, 2.99 percent stop working for the employer, and 1.49 percent resort to a human rights organizations to submit a complain. The sample studied stated that they manage in different ways to provide for their needs when their wage is late, such as borrowing money (44.95 percent), spending from savings (42.20 percent), relying on other side jobs (11.01 percent), and asking their sponsor for money (1.83 percent). Note that none of the sample studied stated that they resort to begging when their wages are late. There is not any relationship between getting paid regularly and either the migrant workers' nationality or the work sector.

Fifty-two (52) percent of the sample studied stated that they do not know the minimum wage in Jordan; in addition, 40.51 percent of those who do not know the minimum wage do not receive the minimum wage required by law. The study tested for statistical significance between nationality and knowing the minimum wage, and it was determined that Egyptians were the most knowledgeable about the minimum wage. Workers in the agriculture sector were the most likely to receive this minimum wage, while workers in construction and day labors were the least likely to receive minimum wage. Ninety-two (92) percent of the sample studied stated that taxes and fees are not deducted from their wages, while 38.78 percent of the sample stated that their transportation, accommodation and food costs are deducted from their wages. Fourteen (14) percent of the sample has bank accounts.

Overtime pay

Seventy-four (74) percent of the sample stated that they are not getting paid for the overtime that they work, and 93.8 percent who receive overtime pay do not get an amount that complies with the provisions of the Labor Law. This dismal percentage reveals the clear economic exploitation that irregular migrant workers in Jordan face.

Healthy work environment

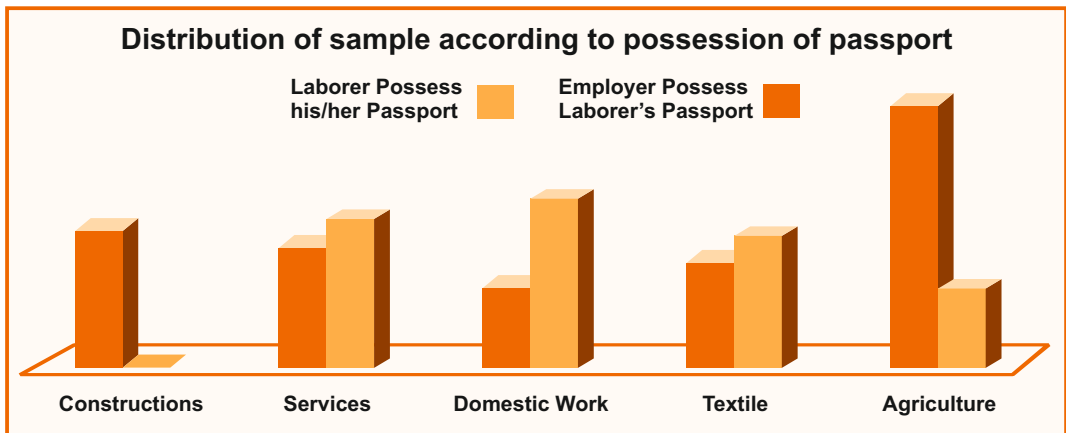
Thirty-one (31) percent of the sample stated that the employer does not provide them with a healthy work environment, with their complaints including the following: 55.95 percent do not have proper ventilation, cleanliness and light, 23.8 percent lack a first aid kit, and 20.23

percent are not provided with means of protection and prevention . The compensation provided by the employer is mainly a yearly increment increase in wages (14.78 percent), uniform or work clothes (13.9 percent), social security (13.9 percent), health insurance (13.02 percent), food (12.14 percent), paying residency fees (12.5 percent), transportation costs (11.61 percent), and proper accommodation (8.08 percent). A statistical test revealed no relationship between providing a healthy work environment and the work sector in Jordan.

Thirty-eight (38) percent of the sample stated that they do not get their weekly days off, and 26.32 percent of do not receive their annual vacations. The reasons behind not getting the days off are mainly based on a prior agreement with the employer (34.72 percent), disapproval of the employer to give the employee a vacation (32.21 percent), and lack of money (33.5 percent).

Possession of personal documents and passport

Forty-one (41) percent of the sample studied stated that they do not possess their passports (55.88 percent males, 44.11 percent females). Eighty-one (81) percent of those who do not possess their passports were illiterate or had only primary education. A statistical relationship was noted between passport possession and work area, with agricultural workers most likely to possess their passports and domestic workers least likely to possess it.



From the data gathered by the questionnaire and the cases studied, we note the high proportion of irregular migrant workers who do not possess their passports. There may be a close relationship between the problems they face and their passport confiscation. As indicated clearly in the table above, and as confirmed in the case studies, most of the workers who do not possess their passports are domestic workers. The cases studied revealed a frequent practice of the employer or recruitment agency demanding money to return the passport.

The right to join labor unions

Ninety-seven (97) percent of the sample studied stated that they do not belong to any union in Jordan, and 89.5 percent of them did not ask for help from any union or organization working in Jordan. It is also worth mentioning that there is a statistical relationship between the workers gender and asking for help from any union or organization in Jordan. Females were more likely to take the initiative to ask for help than males.

The right to equality and non-discrimination

Twenty-three (23) percent of the sample faced discrimination because of their status as a migrant worker. The discrimination was in the following areas: the health sector (25 percent), transportation (22.5 percent), accommodation (20 percent), education (12.5 percent), salary (12.5 percent), hitting and mistreatment (7.5 percent), and children harassment in the street (7.5 percent). We tested for a relationship between exposure to discrimination and nationality, and Egyptians were the most exposed to discrimination, while Indians and Indonesians were the least exposed to discrimination.

The right for adequate accommodations

Fifty-four (54) percent of the sample stated that they live in a joint room with people other than their families, 18.82 percent live in a private room, 17.65 percent live in a private house or apartment, and 9.41 percent live in a joint room with their families.

Sixty-two (62) percent of the sample studied stated that they themselves rent the real estate on which they were living, while 34.57 percent stated that their employer is the one who rented the estate for them and 3.7 percent stated that a friend rent the place. While 32.75 percent of the sample studied stated that they were living with four people or less, 67.24 percent were living with five to fifteen other people.



The right to health care

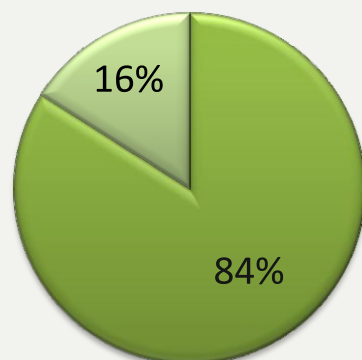
Eighty-three (83) percent of the sample studied stated that their employer does not provide them with a general practitioner, and 86.07 percent stated that their employer does not provide them with a dentist. A third of the sample (66.66 percent) use the health centers and the general hospitals when they are sick.

Access to information

Eighty-four (84) percent of the sample studied stated that they do not know the number for the police or ambulance to call when there is an emergency, and 74.93 percent of the sample stated that they do not know how to report crime.

Distribution of sample as per awareness with emergency numbers

-  Aware of Police & emergency numbers
-  Not Aware of Police & emergency numbers



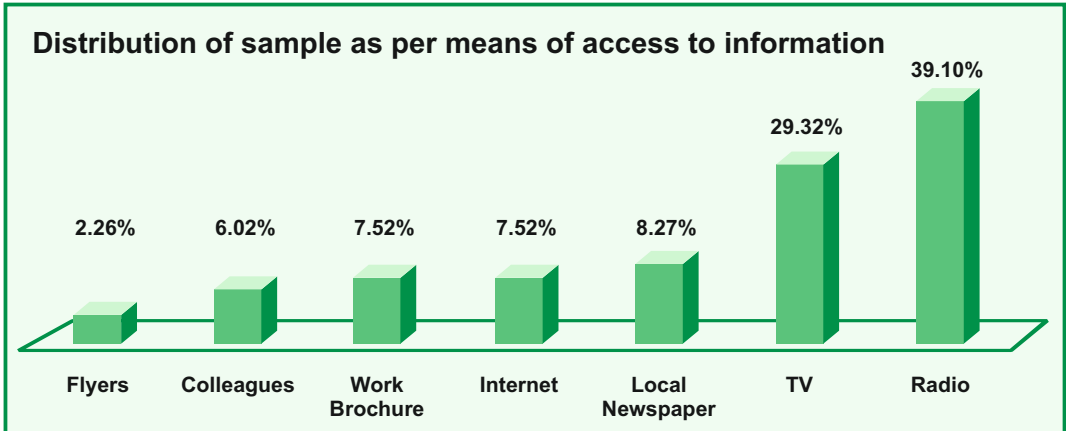
Fourty-four (44) percent of the sample want information on their legal rights, 38.33 percent stated that they need information on health care, and 7.5 percent stated that they need information on education. No statistical relationship was found between work sector and a desire for access to legal information.

Five (5) percent of the sample studied stated that there was a special instruction manual with the information about health and public safety in their work places. Only one worker stated that the manual was in the language that he/she understands, and the other two cases explained that they were able to understand the concept of the manual although they were unable to understand the language of the manual.

Regarding the best way to get information, the sample noted that they use the following mediums: radio (39.10 percent), television (29.32 percent), local newspapers (8.27 percent), the internet and a work-place publication (each 7.52 percent), colleagues (6.02 percent), and leaflets (2.26 percent). A statistical test revealed no statistically significance relationship between access to information in Jordan and Arabic language.

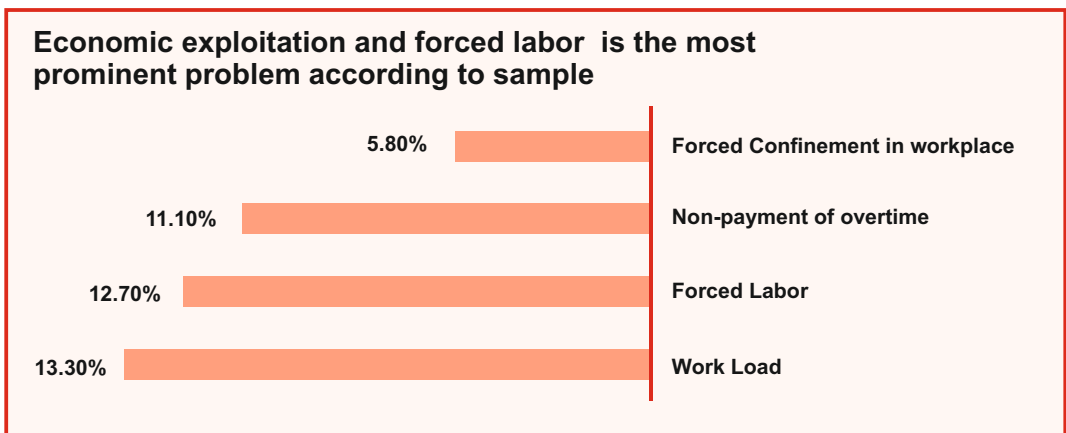
The statistical test revealed that there is a relationship between the mediums used to access information and education level. Illiterate workers were the most interested in ways of getting information, while the workers with a secondary certificate were the least interested.

There was also a statistically significance relationship between the quality of information that the workers want and their current sectors of work in Jordan. Workers in the industrial sector were the most interested in accessing information, followed by the office boys and agricultural workers, while the workers in the textile, blacksmithing and painting industries were the least interested in getting information.



Economic exploitation and forced labor

The survey indicated that the main problem that the sample studied faces is economic exploitation from their employers (individuals or institutions). The workers noted the following complaints of exploitation: the load and intensity of the work (13.3 percent), forced labor (12.7 percent), and not receiving overtime pay (11.1 percent). Some workers (6.2 percent) also complained about the discrimination they face in the wages they receive compared to the wages that Jordanian nationals receive, in addition to forced residency in the work place (5.8 percent). These findings confirm what is stated in the cases studied on irregular migrant workers, especially domestic workers, since the irregular migrant workers in Jordan face all kinds of economic exploitation from their employers and recruitment agencies. This exploitation sometimes reaches the level of forced labor according to the legal definition stated in international law and in basic legal systems around the world, and consequently leads to trafficking in persons.



- There is a relationship between the problems with economic exploitation that the sample studied face and their gender, as females are more vulnerable to harm than males.
- There is a relationship between the problems the sample faces with economic exploitation and their nationality, as the Sri Lankan nationals were most exposed to problems, followed by the Filipinos, Indonesians and then Egyptians.
- There is a relationship between economic exploitation and religion. Those who are Buddhist were the most exposed to the above-mentioned problems, followed by Christians and then Muslims.
- There is no relationship between economic exploitation and their age.
- There is a relationship between economic exploitation and their marital status; widows were the most vulnerable to the problems mentioned above.
- There is a relationship between economic exploitation and the period of residency in Jordan. Workers who spend a period between a year and three years were the most exposed to problems, while the workers who spent less than a year in Jordan were the least exposed to problems.
- A relationship was noted between economic exploitation and the proficiency of Arabic language, since those who are proficient in Arabic language were the least exposed to problems.
- A relationship was also noted between economic exploitation and the monthly income they received. Workers who earn less than 150 JDs/month were the most vulnerable to economic exploitation, while those who earn between 301 and 450 JDs/month were the least vulnerable.

Abuse and sexual harassment

The survey and the cases studied revealed that irregular migrant worker abuse includes degrading treatment such as cursing and insulting, hitting, sexual harassment, illegal deprivation of freedom including administrative detention, load and intensity of work, forced work, forced residency in the work place, lack of sleep due to the long working hours, and various forms of economic exploitation and trafficking in persons.

One of the underlying reasons for the abuses listed above are the laws and regulations governing migrant worker labor in Jordan. The provisions that require the employers' approval for the migrant worker to transfer jobs and make the renewal of the worker's residency and work permits dependent on the employer contribute to the vulnerability and exploitation of irregular workers. Additionally, there is a common practice in Jordan of deporting an irregular worker who has fines, regardless of if he/she has anything to do with causing the overstaying fines. This practice prevents the migrant worker from staying in the country or returning back to it, and it also prevent him/her from freely choosing a job to earn his/her living.

Other manifestations of employer abuse, especially perpetrated against domestic workers, is reporting them to the authorities as a run-away when the domestic worker leave the employers' house due to abuse or economic exploitation such as not paying her wage.

The worker often runs away believing that they will be spared from paying the fines that may be placed on her/him. Additionally, employers sometimes submit a complaint of theft against the worker in order to use as a bargaining chip against any claims of unpaid wages, abuse, harassment, or exploitation of which he/she may complain. In this case, the concerned authorities keep her in detention under very bad and harsh conditions, sometimes for a long period. Usually, the court declares her innocent and clears her of any responsibility.

Residency law violation fines and the deportation law

One of the other main problems that the irregular migrant workers in Jordan face is the accumulation of overstaying fines due to not having a residency permit – which in most cases is the fault of the employer. The reason for accumulating the fines may be the worker's escape for one employer to another employer or job. In most of the cases, the reason a worker leaves the employer is the employer's abuse, severity of the work load and long working hours, or the employer's failure to pay the wages of the worker. This leads the migrant worker to leave his/her work and search for another job that meets his/her basic needs, such as acceptable working conditions and receipt of wages on a regular basis to ensure he/she can make a proper living.

The authorities often – as mentioned above – resort to deporting the irregular migrant worker as a procedure intended to facilitate their return to their country of origin. This procedure is considered a clear violation of the human rights recognized in various international conventions that every migrant worker – including irregular workers – should enjoy, such as the following: the right to freely choose work, the right to receive all his/her financial rights before leaving the country of residence, the right for a fair trial, the right of humane treatment, and the right of transportation. We need to stress again that in most cases, the reason for the accumulated fines is not the worker him/herself. In this context, the lengthy process of litigation may contribute to increasing the size of the fines problems for the irregular migrant workers.

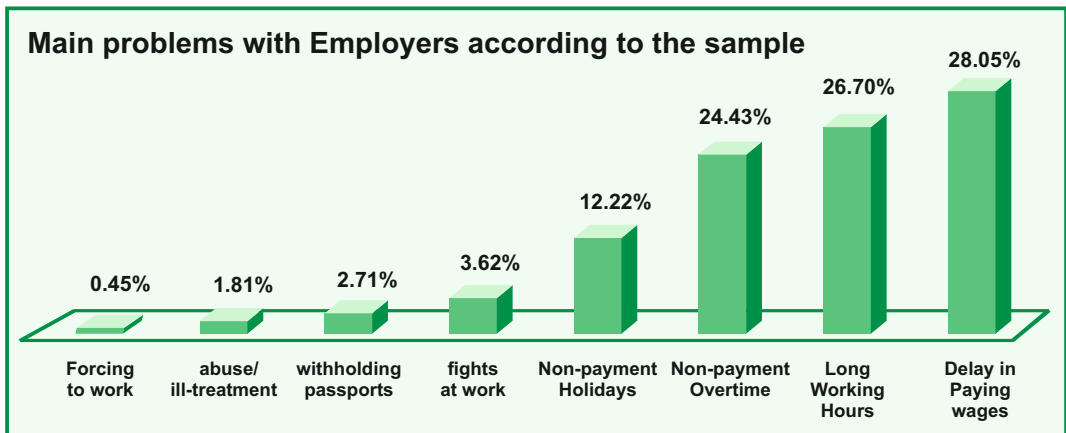
Part-time work and the freedom to choose employment

Many irregular migrant workers included in this study, especially domestic workers, lack permanent, full-time employment. This phenomenon is caused in part by the legislation in force in Jordan and partially because of the desire to exploit domestic workers by recruiting them on a daily basis or paying them low wages, or even refusing to pay them. Jordanian law makes the domestic worker subject to the will of the employer as she cannot transfer to a new job without consent from the current employer, she cannot renew her work permit and consequently her residency permit, and she is not allowed to have a probation period as other workers are given. In other words, the employer of a domestic worker enjoys broad power according to the law and this amount of power allows exploitation that can reach slave-like conditions in some cases. This leads the domestic workers to leave their employers' houses in search of freedom and a way of living, but they become subject to economic

exploitation since it is not possible for her to transfer legally to another employer. She may then become a part time worker or receive wages on a daily basis. This cycle violates her recognized right to choose her employment freely and voluntarily.

The main conflicts with their employers

From the perspectives of the sample studied, the main conflicts in work in Jordan were as follows: delay in paying wages (28.05 percent), long working hours (26.70 percent), not receiving overtime pay (24.43 percent), not receiving pay for working official holidays (12.22 percent), fights at work (3.62 percent), withholding passports (2.71 percent), abuse/ill-treatment (1.81 percent), and forced labor (0.45 percent).



Their relationship with the recruitment agencies

The problems that the sample studied face from the recruitment agencies were as follows: beatings (57.14 percent), withholding passports (28.57 percent), and not providing assistance (14.29 percent). The problems that the sample studied face with their embassies were as follows: not providing needed assistance (56.25 percent), not following-up with their cases (12.5 percent), ill-treatment (12.5 percent), forcing to work, returning them to the recruitment agencies and not allowing them to talk to their families (with 6.25 percent each).



How do irregular migrant workers deal with the problems that they face?

The sample studied stated that they deal with the problems that they face by resorting to the following strategies: asking for the police help (19.12 percent), asking for assistance from the labor offices (18.68 percent) or their countries' embassies (17.58 percent), asking for help from friends (17.36 percent), running away (15.38 percent), leaving work (10.99 percent), contacting an authorized person (0.44 percent), or contacting a humanitarian assistance or human rights organization (0.22 percent each).

The sample was asked what procedures should be taken to deal with the problems that the irregular migrant workers face, and their responses are as followed: pay fines and return their passports (46.15 percent), allow them the freedom to choose their jobs (15.38 percent), send them back to their home countries and follow-up with them (7.69 percent), and no answer (23.08 percent). Almost half the sample is focused on eliminating the overstaying fines that directly contribute to their position and irregular status, while a large number desires the freedom to choose their work voluntarily.

Irregular migrant workers do not have a strong relationship with or much faith in civil society and the human rights organizations. Eighty (80) percent of the sample studied stated that civil society does not provide them with any help whatsoever, and 72.97 percent stated that did not try to get any help from non-governmental organizations in Jordan.



Can the public authorities in Jordan prevent the presence of irregular migrant workers?

One common question related to irregular migrant workers in Jordan is related to the possibility of the public authorities effectively applying the law to prevent the presence of irregular migrant workers in Jordan. Some make appeals to the Jordanian authorities that they have the ability to eliminate the existence of irregular workers in Jordan by strictly applying the law, deporting any irregular migrant worker, increased border control and surveillance, and strengthening sanctions and penalties on the irregular worker's employers.

In other words, there is a tendency for some people in Jordan to believe that the solutions to the problem of irregular migrant workers are repressive security measures. However, this philosophy does not coincide with reality or with the law, as it is not possible to resolve migrant workers' problems through law enforcement or security solutions, for the following reasons:

The futility of increasing restrictions on the entry of migrant workers to Jordan

Can the country prevent the existence of irregular migrant workers through increasing the restrictions on the entry of migrant workers to its territory?

There is no doubt that the relevant public authorities in Jordan already practice a high level of control over the borders, which restricts the chances of entering the country illegally. Additionally, it is not easy to obtain refugee status in Jordan as the conditions are quite strict. Finally, migrant worker entry to Jordan is already limited to certain vocations that are not on the closed list of occupations.

However, while Jordan imposes tight controls over the entry of migrant workers, this strict control did not limit their presence in the country, as the number of irregular migrant workers is increasing. The Jordanian Minister of Labor estimated in his May 2011 statement that the number of migrant workers not registered in the Ministry is almost half the number of migrant workers in Jordan.

The researchers and other parties concerned with the migrant worker situations in Jordan consider increasing restrictions on migrant workers' entry to Jordan useless. Increased controls and regulations (such as increasing control on entry, residency and work permits or large visa fees) simply makes it more difficult to comply with the law, which will increase irregularity. Additionally, while the country can raise revenue through residency and work permit fees, the cost is much more of a burden to migrant workers themselves, and possibly their employers. Additional legal and financial burdens will eventually increase – not decrease – irregular migrant workers.

In that same vein, increasing the control on the terms of recruiting migrant workers may persuade some irregular migrant workers to stay in Jordan for longer. They may be hesitant to return to their country of origin because they know returning to Jordan is more difficult. This has been shown through other countries' experiences. After the American authorities' increased restrictions on its borders during President Clinton's term, the number of irregular migrants increased from 5 million in 1996 to 12 millions in 2008.

This experience indicates that emphasizing control and restrictions on the terms the migrant workers' entry to the country do not have any actual or practical advantage. Such tactics have minimal prevention value, and may in fact have the opposite effect. Instead, many researchers found that the direct and main reason for the existence of irregular migrant workers is the government's failure to respond to the needs of the migrants, such as allowing for opportunities for them to get a proper job legally and respecting their right to freely choose their work. Different reports have emphasized the importance of dealing with irregular migrant workers by providing the means and the chances to migrate and enter the country, not by clamping down on migration for work.¹

The impossibility of collective deportation

Another solution proposed by some to eliminate the irregular migrant workers problem is by alienating them or forcing them to leave the country. There are two methods used to force irregular migrant workers to leave the country: a legal deportation decision or the imposition of conditions so harsh that their survival in Jordan is not possible, and so they leave the country.

This solution is not acceptable from a legal or practical perspective, as the process of deportation or alienation may take several years, especially if the goal is to eliminate all irregular workers. More importantly, such actions are forbidden by the International Conventions for Human Rights, to which Jordan is committed. This convention forbids collective expulsion, discrimination, harsh or in-humane treatment, and deporting the individuals to a place where they may be subject to torture of harsh, in-humane or degrading treatment.

Experience also indicates that it is not easy to deport irregular migrant workers or to get rid of them either by alienation or the imposition of terms that require them to leave. For example, British government statistics from 2007 show that the Ministry of Interior had failed to deport all irregular migrant. While 28 thousand people were expelled either through forced deportation or voluntarily after alienation, this figure represents only four percent of the 725,000 irregular migrant workers in the country. At the same time, the number of irregular migrant workers in 2007 was higher than in other years, which further indicates the ineffectiveness of this strategy.²

¹ D. Broodery and G. Engberen, "The Fight against Illegal Migration: Identification Policies and Immigrant Counterstrategies", *The American Behavioral Scientist*, Vol.50, 1997, No.12, PP.1592-1610; G. Demetrios, "The 'Regularization' Option in Managing More Effectively: A Comparative Perspective," MPI Policy Brief No.4, 2005. ² RDS Home Office (2008), *Control of Immigration Statistic*, 2007, www.UKba.homeoffice.gov.uk.

The same thing can be noted in Jordan, where there is an annual gap between irregular migrant workers who either leave Jordan willingly or are expelled after a deportation decision, and people who become irregular migrant workers. This was shown by Ministry of Labor statistics and comments that indicate that there is an annual increase in the numbers of irregular migrant workers.

As mentioned above, there are reasonable grounds to believe that increasing control and resorting to the authorities will not help deal with irregular migrant workers in Jordan. On the contrary, it will lead to increasing the number of irregular migrant workers. More unfortunately, these workers will avoid communicating with the bodies and institutions concerned with migrant workers, which will isolate them as they become more vulnerable to exploitation, forced labor, trafficking in persons and other practices similar to slavery. In essence, the policy that aims to get rid of irregular migrant workers through forced alienation or by imposing strict conditions on them, may instead lead to increased criminal activities in the country. A prestigious study conducted by research centers concerned with issues of migration in the Hague stressed that the increase in crimes among irregular migrant workers is a result of the emphasis on the strict control, monitoring, and law enforcement.¹

Will the strict application of the law affect employers' practices?

The cases included in the study, in addition to the experiences of other countries, indicate that strictly dealing with irregular migrant workers and resorting to the public authorities as an only solution makes irregular migrant workers more subject to exploitation from their employers and others. It is instead important to implement the laws regarding preventing trafficking in persons and comply with the articles of international conventions related to this subject. Modifications should be made to legislation to ban the exploitation of migrant workers, forced labor, or other practices similar to slavery.

Also important in this context is recognizing the employers' role in issuing the residency and work permits for migrant workers. One of the main ways to help alleviate this problem is by reconsidering the legal provisions that deals with recruiting irregular migrant workers by employers. It may be worthwhile to reconsider the sanctions imposed on the employer, as experience shows that imposing fees on the employer who recruits irregular migrant workers is not a sufficient deterrent. The financial benefit that the employer gains by recruiting irregular migrant workers may be much higher than the fees that he/she pays,

¹ G. ENgbergen and others, "ARoom with a View – Irregular Immigrants in the legal capital of the World," *Ethnographs*, Vo.7, 2006, No.2, PP. 209-242.

especially given that the employer is able to practice greater exploitation and authority over the irregular migrant worker. The increasing number of irregular migrant workers in Jordan demonstrates the ineffectiveness of the fees systems. Fines have never led to diminishing employers' recruitment of irregular labor. Another problem related to employers' behavior is the difficulty of proving employers' exploitation of domestic workers due to the lack of home labor inspection, despite inspections being a component of the domestic worker system.

In conclusion, repression and strict application of the law are insufficient solutions to dealing with irregular migrant workers. A strategy based on prosecution, deportation, and fines has limited ability to alleviate this issue, and it may actually cause an increase in the size of the irregular migrant worker population in Jordan along with a decline in their living conditions. Given these factors, the relevant authorities should instead investigate the reasons and incentives for irregular labor, evaluate the difficulties that they face, and search for practical and humane solutions for their situations that will provide them with the means of living and working freely.

Correction irregular migrant workers' status is the best solution

A government policy of correcting irregular migrant workers' status allows all or some of them to remain in the country legally. Correcting their status is one of the least expensive and most effective tools to solve many of the problems irregular migrant workers face, which is why countries have resorted to this solution in order to deal with the problems of irregular migrant workers.

The best solution to the problem of irregular migrant workers in Jordan is to adopt a serious program to correct their situations and give them a legal status in Jordan, so that they are able to earn a living and enjoy their human rights and labor rights recognized by international law. Attempts to eliminate irregular migrant workers through militant application of the law or strict law enforcement will not work. As mentioned before, these extreme measures will instead increase the size of the problem and create more opportunities for irregular migrant workers to be subject to exploitation, forced labor, mistreatment, and trafficking. Such exploitation has not only a direct negative effect on the irregular migrant workers, but on the whole Jordanian society as well.

Someone may say that correcting the status of irregular workers in order to resolve their problems may encourage more irregular workers and increase their numbers. However, many studies prove otherwise, including an important study from the International Centre for Migration Policy Development (ICMPD) in 2008 that investigated programs that were adopted by European countries since 1996 to correct the status of irregular workers. The results demonstrated that there is not evidence or any indication that such programs actually encouraged irregular migrant workers or increased their number.

We cannot ignore this problem in Jordan and must address it in accordance with humane measures and basic rights recognized for all people, including irregular migrant workers. These issues should be viewed as a serious problem that touches the heart of Jordanian society, as its effects are not limited to irregular migrant workers alone. It is imperative that they are integrated into Jordanian society, and that their right to reside in the country and freely chose their job is recognized, so that they are no longer subject to various forms of exploitation and injustice.



This empirical study for irregular migrant workers revealed that there are various violations to the rights of irregular migrant workers in Jordan such as economic exploitation, forced labor, trafficking in persons, abuse, preventing workers from their right to choose their jobs and residence freely, and change their jobs freely. Additionally, they face improper living conditions, long working hours, forced residency in the work place, absence of any break time, confiscation of passports, and physical and verbal abuse. Such huge problems and violations require the country to adopt a humane and clear policy for irregular migrants workers to enable them to access their internationally-recognized rights and to protect them from all forms of exploitation and practices similar to slavery. In order for this policy to achieve its goals, it should take into consideration a number of issues that are summarized in the following recommendations:

1. Pass a series of legislative amendments that ensures that all migrant workers (and especially domestic workers) have the right to choose their work freely and transfer from one job to another without requiring permission from the employer. These amendments should also enable migrant workers to renew their work permits (and consequently residency permits) so that this obligation is not left to the whim of the employer. Finally, there should be an explicit right for workers to obtain residency after they leave an abusive or negligent employer, and while they are negotiating with their employer for their rights or wages.
2. Independent, effective and timely investigations should be launched in all the cases where the employers or recruitment agencies are suspected of any abuse or exploitation of migrant workers – regular or irregular. Anyone found guilty of practicing forced labor, sexual or economic exploitation, or trafficked in persons should be punished and the victim should be compensate for any physical or emotional damage.
3. The Ministry of Labor should initiate inspection on all places where migrant workers exist – even private homes –to ensure that they are working under satisfactory conditions, that they receive wages regularly without violating the minimum wage law, and that they enjoy paid vacation and overtime. It is of course essential that inspections occur where exploitation is suspected, regardless the form of exploitation perpetrated by the employers towards the migrant workers.
4. Irregular migrant workers should not be asked to pay fines that accumulate on them, since they are not the reasons for the fines accumulating when their employer neglects to renew the residency or work permits, or when the migrant worker is forced to leave as a result of his/her employer breaking the terms of the contract and/or abusing or exploiting him/her. For these reasons, it is important that the Ministry of Interior consider reassessing how they levee fines. Additionally, they should not issue fines during the period when the migrant worker submits a claim against the employer to get his/her rights or due to criminal proceedings against the employer.

submits a claim against the employer to get his/her rights or due to criminal proceedings against the employer.

5. Increase public awareness about the rights of irregular migrant workers. Society – with its various organizations and institutes – plays a significant role in establishing service programs for the migrant workers and facilitating their access to them. Specifically, Arabic language for non-native speakers and child-care services are especially needed, particularly for workers who intend to stay in Jordan for an extended period. Since the society as a whole is required to protect workers from all forms of abuse and exploitation, it is important to raise their awareness about their obligations and workers' rights.

6. Jordan should join the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (1990) and harmonize national legislation with its provisions. At the very least, Jordan should respect the rights of workers listed in this convention that have been recognized in other human rights conventions to which Jordan is a party, and which appear in the official gazette.

7. The Ministry of Labor, Ministry of Interior, and public security should help protect irregular migrant workers. Additionally, civil society organizations should take a more active role to help these workers protect their rights. Employers should be involved in programs to provide services to migrant workers, especially programs that deal with complaints about abuse or discrimination. And of course, labor unions also should be involved in providing assistance, services and protection programs for migrant workers.

8. Increasing confidence between members of the public security and migrant workers – including irregular migrant workers – will encourage them to report the crimes and violations to their human rights, which are protected in Jordan's penal code. One of the main reasons that irregular migrant workers are subject to exploitation, sexual harassment, abuse, forced labor and slavery is that they are in vulnerable position and are afraid to contact the public authorities because of fear of deportation, arrest, or being treated like a criminal. We recommend a joint effort of all the relevant authorities to increase migrant workers' confidence in them, particularly focusing on irregular worker's confidence in the public security.

9. The relevant ministries and public authorities – such as the Ministry of Labor and the public security – should work to enhance all measures aimed at preventing violence or harm against domestic migrant workers. They should facilitate the workers' ability to submit complaints against those who commit these crimes, and then assure that these cases are investigated through a speedy, fair and independent mechanism. The relevant bodies concerned with criminal prosecution in Jordan should ensure that the employers and the recruitment agencies' representatives who are suspected of criminal activity go to court.

10. The relevant authorities should periodically and systematically verify that migrant workers – including domestic workers – have possession of their passports. Anyone suspected of the crime of withholding a migrant worker's passport should be referred to court for punishment, regardless of if the passport is returned to the worker after the litigation claim was made against him/her.

11. The Ministry of Labor should investigate and ensure that migrant workers have viewed their work contract before the Ministry issues them a work permit. In cases where the contract is signed in Jordan, the Ministry should make sure that the contract corresponds to the copy of the contract that the worker viewed in his/her country.

12. Domestic workers should be granted the right to a probation period like all other workers, during which time they may change employers or return to their home countries. This is important since they do not have the opportunity to view their actually working conditions before they arrive to Jordan and start work. Employer should have the right to a probation period as well. In all cases, if the domestic worker leaves an employer within the first three months, they should have the right to choose a new employer, and they should be allowed to stay in the country without penalties as they search for another job.

13. A key issue for the Ministry of Labor to consider is the issue of closed vocations, which presumes that the labor market does not need migrant workers in these areas. However, it is clear that employers still prefers to recruit migrant workers for some of these vocations, which causes irregularity when an employer officially recruits a worker for one of the open vocations while he/she actually works in a closed vocation. The migrant worker him/herself may resort to the same method of illegally switching occupations after obtaining work and residency permits for an open vocation. Given these problems, the list of closed vocations should be reassessed regularly and periodically to test how responsive it is to the actual labor market in Jordan and to the desires and needs of the employers.

14. The Ministry of Labor, Ministry of Justice, and non-governmental organizations working in Jordan on human and migrant worker rights should cooperate to launch an awareness-building campaign targeting the public at-large, legal practitioners, employers, recruitment agencies and migrant workers themselves. The campaign should education the population that migrant worker enjoys the same rights that national citizens do (except for political rights). The basic principles governing migrant workers' legal status should be based on an understanding of the universality of human rights. Human rights are guaranteed to all people, regardless of his/her nationality or place of residency, and migrant workers should therefore not be subject to abuse, injustice, economic and sexual exploitation, or any practice similar to slavery simply because of his/her nationality or economic status.

15. Jordan should end administrative, arbitrary detention of irregular migrant workers, which in some cases continue for extended periods. Such detention should only be made if there is a clear, indisputable reason requiring it, and only then as a last resort. Those who have been detained should be compensated for any physical or emotional damages they faced.

16. Seriously consider adopting a comprehensive program for correcting the status of irregular migrant workers in Jordan. Allow them to stay in the country with the opportunity to work freely while ensuring their basic human and rights, like all other workers in Jordan. Facilitating opportunities for economic and social integration is the only solution to resolve the problems and challenges they face.

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Wasfi el-Tal st. (Gardens) Building No.80 Ghazi Tarding Complex - Fifth floor - Off. 501
P.O.Box 1555 Amman 11118 Jordan - Tel. 00962 6 5671729 - Cell. 00962 7 96404406