



# Walled in by Alienation

Working and living conditions  
of migrant workers in Jordan

Annual report - 2016

**Prepared by  
Tamkeen Team**



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## Overview of Tamkeen Fields for Aid

Tamkeen Fields for Aid is a non-governmental, independent and neutral organization established 10<sup>th</sup> October 2007. The organization aims to promote the exercise of fundamental human rights and freedoms for all segments of society, particularly those who are marginalized such as children, women, refugees, workers, people with disabilities and others in accordance with national and international conventions and treaties.

Tamkeen is specialized in promoting the protection of migrants and workers, combatting human trafficking, enhancing social protection and the rule of law.

Tamkeen aims to achieve its objectives through capacity-building for governmental and non-governmental entities and by providing services and consultation to those in need in order to empower them and raise their awareness regarding their rights and duties. It also provides specialized programs in the field of human rights to various segments of society. This is achieved by raising awareness of human rights for all related parties. The center also works to produce studies regarding topics related to its field of expertise.

In addition, Tamkeen works to strengthen cooperation and coordination between different concerned stakeholders such as national institutions and bodies, civil society organizations and associations in addition to the activists and individuals working in the field of human rights protection. Additionally, the center works to

establish partnerships with organizations in other countries to protect the rights of migrant workers.

Tamkeen Fields for Aid works to provide assistance to combat human trafficking and human rights violations by adopting a three-pronged approach which consists in; protection, prevention and prosecution. It is possible to ensure protection by educating migrant workers, government officials and the general public on the possible human rights violations in the labor sector. Moreover Tamkeen works to eliminate human rights violations through legal advocacy and policy reform, educating migrants on their rights and duties, conducting educational programs and by producing brochures appealing to the general public.

## Introduction

Migration for work is one of the most prominent forms of migration. It started in the ancient times since people began relocating as a result of globalization, technological progress and ease of communication and transportation. The number of migrants worldwide has increased due to the lack of stability, poor economy and political conflicts. According to the International Labor Organization (ILO), the number of migrant workers amounts to 150.3 million worldwide. This number includes migrant workers and migrants in search of employment and approximately 11.5 million domestic workers.

Jordan is a country of origin, residence and transit for migrant workers. The number of Jordanian migrants amounts to around one million which are spread over 70 countries according to statistics issued by the Ministry of Foreign Affairs. The data indicates that 79.5% of migrants are in Gulf countries, 11% are in the United States and Canada, 4.3% in Europe and 3% in other Arab countries. Of these, the number of working Jordanian migrants is estimated to be 600,000 to 800,000. The number of migrant workers in Jordan is approximately 1,200,000 while the number of those with work permits is 315,016.

Jordan took significant, tangible, legislative steps to protect such categories. However some practices and loopholes still hinder these steps.

Migrant workers in particular are subject to many violations due to their existence in a foreign country with limited social and economic support. Therefore it is important to implement a system seeking to protect migrant workers by providing them with social assistance and mediation services. However if the protection and prevention

methods fail, the people who violate the human rights of migrants must be prosecuted. In this context, the annual report of Tamkeen highlights the main issues facing migrant workers in Jordan. The report will address various topics such as the international and national legal framework for migrant workers, working conditions and environment, in addition to their numbers, nationalities and distribution across labor sectors.

The report will allocate a section to address the administrative detention of migrant workers. Additionally, the report will dedicate a section to discuss victims of human trafficking and suspected cases of trafficking in Jordan. The report will also devote a section to the administrative detention of migrant workers and alternatives to detention.

The report was prepared based on complaints received by Tamkeen Fields for Aid and the procedures adopted to address them, through the interviews, meetings and discussions conducted between Tamkeen's working group with a number of decision makers and employers and finally by monitoring all occurrences related to migrant workers in 2016. Finally, Tamkeen is publishing its report on the status of migrant workers in Jordan "to put it on the table" of all specialized Jordanian authorities, Jordanian and international civil society organizations working in Jordan in order to adopt its suggestions and recommendations. We believe the report can help support and protect human rights and promote the development process that guarantees to uphold the international obligations accepted by Jordan.

Tamkeen Fields for Aid shows gratitude and appreciation to Mr. Chris Baumohl for his contribution in presenting a worksheet regarding administrative detention in Jordan, and to Ms. Noor Qawasmi for translating the report .

**Tamkeen Fields for Aid working group  
2016**



## Executive summary

The annual report entitled “Walled in by Alienation” includes extensive analysis of the legal framework for migrant workers in Jordan and the most important issues that they face. Furthermore it addresses the working conditions and environment of migrant workers, their numbers, nationalities, and their distribution across labor sectors. In addition, the report devotes a section to discuss victims of human trafficking and suspected human trafficking cases in Jordan. The report will also include a section discussing the administrative detention of migrant workers and alternatives to detention.

### **The administrative framework of migrant workers in Jordan**

- The number of migrant workers in Jordan amounts to around 1,200,000. The number of them in possession of work permits is 315,016. Jordan took significant tangible steps to protect these segments legislatively, however there are some practices and loopholes that prevent and hinder these steps.
- Migrant workers in particular are subject to several violations due to their presence in a foreign country with limited social and economic support. Accordingly, it is important to adopt a system seeking to protect the rights of migrant workers by providing with social assistance and mediation services. However, should these protection and prevention methods fail, it is important to prosecute those who violate the human rights of the workers.

- The Ministry of Labor has a prominent role in dealing with migrant workers in terms of organizing their work, the recruitment process and granting work permits. Furthermore, the Ministry of Interior is responsible for providing them with residence and work permits. The Public Security Directorate with its various departments is in charge of implementing laws, systems and official orders in addition to assisting public authorities to perform their functions or duties.

## **The legal framework of migrant workers**

- Jordan is obligated, in accordance with international treaties that it joined, to protect the rights of migrant workers residing within its territory. The provisions of these conventions and treaties include all individuals living within the territory of the concerned country and who are subject to its jurisdiction without discrimination whether based on sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
- Jordan joined a number of international conventions and treaties which were published in its official gazette and which have become part of Jordanian law including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which emphasized the provisions stipulated in the Universal Declaration of Human Rights (UDHR). Jordan has also joined the United Nations' Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This is in addition to the International Convention against Transnational Organized Crime (CTOC) of 2000 and its

protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

- Jordan is also committed to a number of ILO conventions, most importantly, Freedom of Association and the effective recognition of the rights to collective bargaining, the elimination of all forms of forced or compulsory labor, the effective abolition of child labor and the elimination of discrimination in respect of employment and occupation. Jordan is bound to the Declaration of Principles as a member of the ILO, and is signatory to 24 international labor conventions, with only 14 of which have been published in the official gazette.
- Domestic and agricultural workers were included in labor law in 2008. Nevertheless the same law referred them to be included under a by-law. However the by-law for agricultural workers has not yet been issued. This renders their status incomplete within the framework.
- The Jordanian employer is responsible for the issuance of residence and work permits. However if the employer neglects to do so, or refuses to carry out his obligations, the migrant worker is the one subjected to fines and penalties. The worker will be at risk of detention due to the violation of the provision of Residence and Foreigners' Affairs Law. Since the law places the responsibility on the employer to fulfill this obligation, the employer should be liable for penalty given that the current law punishes the worker for a violation which is in fact the responsibility of the employer.

## Syrian workers

- The work of Syrian migrants in Jordan is subject to Jordanian labor law, with exception of by-laws, instructions and decisions issued by the Ministry of Labor. The work of the Syrian migrant worker is connected to the amendment of Article 12 of the amended Labor Law 26 of 2010 which stipulates following and implementing mechanisms and terms of recruitment of migrant workers according to instructions issued by the Ministry of Labor, and charge fines not less 200 JD and not exceeding 500 JD in cases of violation, with the exception of work permit fees ranging between 60 to 825 JD.
- The international conventions governing the work of refugees in Jordan are represented by the international covenants and conventions; in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in particular when directly related to international refugees. However Jordan did not sign the UN convention of 1951 and the Protocol of 1967 concerning the status of refugees. Jordan is only bound by a memorandum of understanding signed between the Jordanian government and the UNHCR.
- According to the decision of the Ministry of Labor, issued at the beginning of 2016, it was decided to close several careers to migrant workers. This decision also applies to Syrian workers. These careers are exclusively reserved for Jordanian workers.
- Syrian workers are subject to several violations in Jordan, most notably low wages, denial of overtime work allowance and not including them under the umbrella of social security.

## **Migrant workers**

- Documented migrant workers numbers amount to around 300,798 people while the number of undocumented migrant workers has risen to an estimated 600,000. Migrant workers in Jordan are exposed to numerous violations, mainly to late or unpaid wages, deprivation of healthcare, withholding of liberty, non-renewal or non-issuance of residence and work permits, the confiscation of permits, passport confiscation and deprivation of most labor rights stipulated within labor law.

## **Violations of domestic workers' rights**

- In spite of the absence of any provisions explicitly requiring domestic workers to remain day and night at the home of their employer, most domestic workers suffer from forced confinement to the workplace. It is considered a deprivation of liberty making it difficult for the worker to report any case where they are being subjected to any violation.
- Psychological abuse is one of the most common forms of abuse from which domestic migrant workers suffer. Domestic workers suffer from ill-treatment and they are subjected to various forms of intimidation, violence, insults, degradation, humiliation, harsh and improper living conditions, and slavery-like working conditions. Many migrant workers are also subjected to physical abuse. Some of them are exposed to sexual harassment and rape. All of this while being forced to remain confined to the home makes it difficult to prove such violations.
- Many domestic workers suffer from deprivation of healthcare since many workers have fallen off balconies while cleaning, without having been provided with safety measures, leading to serious injuries, lifelong disabilities or death.

- Many domestic workers suffer from food deprivation, be it in terms of quantity or quality. Additionally they are deprived of privacy since many of them do not have private rooms with closed doors.
- Many domestic workers suffer from work pressure in terms of long working hours or the amount of work that needs to be completed. In spite of the fact that the domestic worker by-laws define working hours as 8 flexible hours per day, one day off per week, annual leave and sick leave, most of the domestic workers are deprived of such rights.

### **Migrant workers in the Qualified Industrial Zones (QIZ)**

- The total number of workers in the QIZ is 50,135 consisting in 11,499 men, 27,290 women and 11,346 Jordanian workers comprising of 4,301 males and 7,944 females.
- Many workers in the QIZ are exposed to a number of violations documented by Tamkeen in complaints received by the center and from field visits conducted by Tamkeen's working group to industrial zones and interviewing workers in the field. The most prominent abuses are unpaid wages, unpaid overtime, long working hours, deprivation of leave time, the forced amendment of their employment contract, physical abuse and sexual harassment.

## **Occupational health and safety regulations**

- Work accidents and diseases are considered the main causes of injury and death among workers. Records of social security indicate that every 33 minutes a work accident takes place in Jordan. Death, as a result of an accident, occurs once every five days on average. The number of recorded accidents since the establishment of the social security department exceeds 430,000 injuries with an annual rate of 14,000 injuries. It has been noted in the complaints received by Tamkeen that many workers suffer work injuries when operating machinery. Additionally, domestic workers incur work related injuries as a result of using chemicals without utilizing appropriate tools as they had not been provided by the employer or from falling when cleaning windows.
- Many doctors and nurses mentioned to Tamkeen center that there are workers who are subject to illness in their respiratory system caused by a lack of good ventilation in their places of work and residence. Some of them suffer from eye illnesses as a result of poor lighting.
- It was revealed that the cost of treatment for work injuries are mostly covered by the workers and their days of absence were deducted from their monthly wages.

## **Correcting the working status of migrant workers**

- The number of migrant workers in possession of work permits in 2013, 2014, and 2015 amounts to approximately 925,623 workers, of which 718,880 are males and 206,743 are females. During this time, the Ministry of Labor conducted more than one period of status correction covering 218,783 migrant workers of different nationalities with a financial cost of around 62 million JOD.

- Although the Jordanian authorities allowed periods to correct the status, it is usually announced suddenly without giving a reasonable period of time for workers to arrange their situation and find an employer. Additionally, the migrant workers' passport confiscation hinders the correction of their status.

## **Irregular migrant workers**

- A common cause for regular migrant workers to become irregular in Jordan is the employer's failure to renew the worker's residence or work permits.
- Some other important causes in Jordan leading the worker to becoming irregular are the withdrawal of the father's nationality which affects the nationality of the wife, sons and daughters.
- There are also reasons contributing the presence of irregular migrant workers in Jordan in professions closed to them and its applications. The employer might need a migrant worker to be recruited in one of the 'closed' professions list (those reserved for Jordanian nationals). Therefore this employer recruits the migrant worker for a profession not in the 'closed' list but in reality the worker is intended to unofficially work in a job that is in fact from the closed list.

## **Administrative detention**

- Administrative detention is considered a violation of the right to personal freedom as the administrative governors implement the Crime Prevention Act without being bound to implement all the legal procedures stipulated under Jordan's Criminal Procedure Code when issuing an arrest warrant against any person.



- The number of administratively detained people, based on decisions of administrative governors in the Kingdom, is around 19,860 detainees as of 2015, in comparison with 20,216 detainees in 2014, 12,766 detainees in 2013, 12,410 detainees in 2012 and 11,345 in 2011. The percentage of non-Jordanian detained or arrested is approximately 4% of the number of detainees in correctional and rehabilitation centers or in police stations.
- In terms of the cost of the detainees in the correctional and rehabilitation centers, the amount reaches around 92,700,000 JOD per year; equivalent to 750 JOD per month per detainee. In case of an available alternative punishment, the cost would drop by 25% to 69,600,000 JOD per year.
- Although Jordanian legislation amended Article 100 of the Criminal Procedure Code stipulating that the detention period of the defendant in the police station is 24 hours, after which he or she is forwarded to the attorney general as the competent judicial authority to conduct the investigation. However police stations continue to detain migrant workers for much longer periods. In interviews conducted with 281 people who were detained, the interviewees reported that they remained in the police station for a period of time ranging from one day to 11 months.
- It is important to highlight a notable issue faced by prosecuted detainees which is the delay in sending migrant workers to court. This leads to a delay in their arrival for their court ruling and negatively impacts the progress of their cases. Tamkeen found in one of its cases, the transportation of a domestic worker from Jweidah prison to the court in Irbid was delayed and this occurred more than once therefore her case was adjourned.

## Recommendations

1. Abolish all discriminatory legislation such as the decision of minimum wages.
2. Raise legal awareness and education among migrant workers of their rights and duties, and their relevant laws.
3. Activate the role and efficiency of the inspection system by increasing the number of inspectors, reinforce their capacity and provide them with modern technological tools.
4. Activating the role of the authority of wages, and create a mechanism to decide on migrant workers' issues within a short time frame and reinforce the importance that the Ministry of Labor retain detailed information of the employers such as their home and work address as well as contact details.
5. Redefine the crime of trafficking in persons with more accuracy and clarity, taking into account the legislative environment in Jordan which does not correspond with the definition of the Protocol which limits the difficulty of implementing said law as a result of its definition.
6. Search for legal solutions to prevent the expulsion and deportation of migrant workers, provide translation for the worker and mitigate the slow pace of court proceedings by making the statute of limitations two years for labor rights and three years for damages. This will cause the victims of human trafficking to lose their opportunity to obtain judicial remedy granting them their rights.
7. Stipulate explicitly in the Jordanian penal code and other related penal legislation the criminalization of forced labor which is prohibited in the constitution, and impose appropriate punishment when committed since convention 1930 requires the state party to consider forced labor as a crime and not as a labor violation as other violations.

8. Establish private institutions to recruit domestic workers in a part time working system without the need to have them stay in the homes of their employers and enhance the labor inspection of said institutions by the inspectors.
9. Ensure that all domestic workers have received training before reaching Jordan and provide them with the necessary orientation related to their rights and duties, traditions and customs of Jordanian culture and inform them of the places they can resort to should they suffer any violation. It is important to establish an official shelter for domestic workers facing problems and make them aware of the shelters. In addition, there is a need to create a welcome program for the domestic workers to provide them with quick awareness-raising of their rights and duties and of the places where they can seek help.
10. Comply with international law by utilizing administrative detention only as a last resort in exceptional circumstances and limit its use and its duration according to the guidelines set by international law.
11. Launch pilot programs as alternatives to administrative detention such as reporting conditions, act as guarantor for the worker released on bail, or residency in open or semi-open centers to evaluate the most effective non-invasive implementation of immigration laws.
12. Make work permits for migrant workers independent from their employers so that the employers will not be responsible for the renewal of the worker's permit or for paying any overstay fines.
13. Train the judges and prosecutors in addition to all law enforcement officials to respect the human rights of migrants whether when issuing arrest warrants or carrying out detention procedures.

## **Methodology of The Report:**

The following quantitative and qualitative research tools will be used to achieve the objectives of the annual report:

1. Analytical review of all studies, reports, international conventions and national legislation related to migrant workers.
2. Conducting multiple interviews with specialists.
3. Analysis of administrative detention and providing alternatives to reduce it.

## Legal framework for migrant workers

To begin with, it is noteworthy to indicate that migrant workers, regular or irregular, enjoy the same human rights recognized in the international mechanisms. An irregular migrant worker in Jordan needs to enjoy all legal rights included in the international conventions and treaties as well as he or she must enjoy all other human rights stipulated in Jordanian legislation. The following is a presentation of the most prominent components of the reference legal framework of this study including the international and national components.

### **The international and national conventions and treaties related to migrant rights**

Based on international conventions and treaties joined by Jordan, the Kingdom is bound to protect the rights of migrant workers residing within its territory since the provisions of these conventions and treaties include all individuals within the territory of the concerned state and who are subject to its jurisdiction without any kind of discrimination based on sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status as stated in the two international covenants. These obligations must be implemented in good faith based on the provision of Article 26 of the Vienna Convention on the Law of Treaties. It is not permissible to invoke by utilizing the provisions of an internal law as justification for the non-implementation of these provisions, international human rights conventions and treaties.

### **Human rights, international conventions and treaties**

Jordan joined many international conventions and treaties starting from the Universal Declaration of Human Rights which stipulates the fundamental rights which “must be enjoyed by all people” starting with the right of every person to life, liberty and personal safety, the

right to not be subjected to torture, penalties or cruel and inhuman treatment, or that which offends human dignity, the right to recognition before the law in addition to the fact that all are equal before the law and entitled to enjoy equal protection without discrimination. The Universal Declaration of Human Rights also stipulates that each individual has freedom of movement, to choose a place of residence inside the territory of each state, the right to leave any country including his or her country of origin and to return to it. Furthermore, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights support what has been stipulated in the Universal Declaration of Human Rights. Jordan has also joined the following United Nations conventions; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, all of which were published in the official gazette.

In the scope of combatting human trafficking, Jordan joined the International Convention against Transnational Organized Crime of 2000 and its protocol, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

The prevention stipulated in the different fore mentioned human rights conventions constitutes the minimum level of protection. The state parties including Jordan are not allowed to go lower than this or subtract from it whether in their national legislation or their judicial, executive or administrative practices. The state must take the appropriate steps to protect human rights within private relations. Otherwise the state carries international responsibility in such regard. This matter is confirmed by the High Commissioner for Human Rights in his report regarding such issues in 2007. Jordan has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 which entered into force on 1 July 2003. Jordan's non-ratification of this

convention makes the protection of migrant workers lose one of the most vital foundations in its legal framework. This convention is one of the fundamental human rights conventions as it emphasizes in its preamble on the link between it and the fundamental United Nations mechanisms regarding human rights. In addition, it highlights the principles and standards mentioned in the relevant mechanisms endorsed by the International Labor Organization (ILO).

The convention includes a number of fundamental and important legal provisions in the field of protection of migrant workers' rights and members of their families. Although the number of the state parties who ratified this convention does not exceed 43 states to date, it can be said that some of the guaranteed rights became part of customary international law, particularly the rights and provisions which are similar to the ones stated in the human rights and ILO conventions.

The judgment of the reality of irregular migrant workers' status in any country must be based on the principles and standards established by these conventions particularly due to the fact a huge part of these principles and standards are part of the customary international law which binds the state and non-state parties to these conventions.

### **International Labor Conventions**

Jordan is committed to a number of international labor conventions, including; Freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labor, the effective abolition of child labor, and the elimination of discrimination in respect of employment and occupation. Jordan is bound by the declaration of principles as a member of the ILO, having ratified 24 international labor conventions, only 14 of which were published in the official gazette. It is noteworthy in this context that Jordan has not ratified a number of important international labor conventions in the field of migrant workers protection which are; C087 on Freedom of Association and Protection of the Right to Organize Convention of 1948, C129 Labor

Inspection (Agriculture) Convention of 1969, C181 Private Employment Agencies Convention of 1997, and C097 Migration for Employment Convention. Jordan has not joined ILO's C189 Convention concerning decent work for domestic workers which was adopted in 2011.

## **Jordanian legislation**

The Jordanian legislative system includes a number of laws and by-laws starting from the constitution which stipulate a number of rights and freedoms from which migrant workers can benefit whether he or she is regular or irregular, such as equality and non-discrimination, personal freedoms, right to litigation, access to courts and remaining legislation. It is possible to summarize the most important legislation of: Civil Law, Labor Law, Social Security Act, Penal Code, Anti-Human Trafficking Law, the Law of Residence and Foreigners' Affairs and the Abolition of Slavery in addition to other legislation that provides partial or sectorial protection to the migrant workers in some areas. The mentioned laws include a number of applicable statutory provisions which are applicable to regular and irregular migrants equally. Labor Law 8 of 1996 defines the worker as "every person, male or female who performs a job against wages and is subordinate to the employer and at his service". The provisions of Article 3 of the law should apply to all employees regardless of whether the nationality is Jordanian or non-Jordanian, and of the legal status of the worker. The provisions of Jordanian Labor Law and the labor rights that it includes are applicable to all workers both Jordanian and migrants, including irregular workers. Moreover Article 12 of Jordanian Labor Law oversees all matters related to migrant workers.

Jordanian legislation does not allow the recruitment of any non-Jordanian worker without the approval of the Ministry of Labor or his authorized representatives under the condition that the work requires experience and competence not available from Jordanian workers or the available number of competent workers does not meet the demand. The Minister of Labor has the right to issue the necessary instructions to regulate and recruit non-Jordanian workers.



The law requires the non-Jordanian worker to obtain a work permit issued by the Ministry of Labor for one year renewable. The fee shall be set by a regulation issued by the cabinet and it must be collected from the employer and is considered an income for the treasury.

The employer or the manager of the establishment shall be penalized by a fine no less than 200 JOD and not exceeding 500 JOD for every non-Jordanian worker employed in a manner which is in violation of the provisions of this law. The fine may be doubled in case of repetition and it may not be reduced below its minimum in any case or for any reason.

Employment of a non-Jordanian is considered a violation of the provision of this law in any of the following:

- Employment of him or her without a work permit
- Employment by an employer not permitted to work with him/her unless in possession of a permit from the concerned ministry
- Employment of the worker in a career which he or she is not permitted to occupy

In the case of violation of these relevant labor law provisions, the Ministry of Labor shall issue a decision to deport the non-Jordanian worker outside of the Kingdom at the expense of the employer. This deported non-Jordanian worker is not permitted to return to the Kingdom until three years have passed since the date of the decision of his or her expulsion.

By following up the reality of legal applications of labor law regulations on the ground, it was noticed that there is a huge number of migrant workers, particularly Egyptian workers, who are subject to a form of human trafficking. These individuals fall prey to “work permit brokers” who make a fortune off the exploitation of the Egyptian workers’ conditions following the January revolution and the widespread unemployment in their country. Many of the

Egyptian workers tend to sell most of their property after being lured by brokers who obtain agricultural work permits for them to be employed in the agricultural and construction sectors in Jordan. As a result they suffer from being pursued on almost a daily basis by the inspection teams of the Ministry of Labor for their employment in professions they are unauthorized to work in. In the case of their capture, the worker is detained and subject to significant, burdensome fines. However in case of their failure to pay these fines, the worker is deported outside the country and prevented from entering it again.

What must be positively noted from Jordanian Labor Law is that although it considers recruiting any irregular migrant a violation of its provision, this does not justify depriving the worker from the rights stipulated in the law based on his or her irregular status. On the other hand, the Social Security Act does not absolutely require that the person benefitting from social security be a regular worker. It is sufficient that the employee works in an institution formally subject to the law and possesses a work permit in order to have transcription in social security and benefit from it. Irregular migrant workers are subject to compulsory social security as long as they are working in an institution covered by Social Security Law and have a work permit regardless of their status of residence. Indeed the practice of the social security department exactly matches the provisions of its articles. The social security department does not take into consideration the legal status of the migrant worker when related to his subscription to social security. However from a practical perspective, the migrant worker rarely possesses a work permit without owning a residence permit.

Other important laws related to the status of irregular migrant workers are the Law of Residence and Foreigners' Affairs of 1973 which stipulates that the foreign worker enter the Kingdom legitimately by land, sea or air and possess a visa. Article 16 of the same law prevents the recruitment of any foreigner unless he/she holds a residency permit in the Kingdom. The law defines the length

of stay as one year renewable. It allows the Minister of Interior to grant a five year residency to each foreigner having legitimately resided in the Kingdom for 10 years. Article 35 imposes that each employer recruiting a foreigner who does not obtain a residence permit or who is not allowed to work a fine of 50 to 70 JOD for each offending employee. Nevertheless Article 34 of the same law imposes a fine on each foreigner who enters the country illegally “such as entering as an infiltrator or through smuggling” without obtaining an *iqama* (residence permit), if his or her stay exceeds the permitted time, or if he or she did not apply for a renewal of his/her residency within the month of expiry, of 45 JOD for each month or part of the month at 1.5 JOD for each day. In addition to the fore mentioned laws, there are regulations and instructions which are closely linked to the situation of irregular migrant workers, most importantly: domestic workers by-law, by-law regulating recruitment agencies recruiting non-Jordanian domestic workers, the by-law of the work permit fees of non-Jordanian workers, labor inspectors by-law, instructions of conditions and procedures for the use of non-Jordanian workers, instructions of conditions and procedures for recruitment of non-Jordanian in the QIZ and the decisions related to the minimum wage, in addition to the decisions related to the closed professions reserved for Jordanians.

The mentioned by-laws and instructions are related clearly to the status of irregular migrant workers. For instance, decisions related to ‘closed’ professions leads to workers finding themselves in an irregular status since they prohibit the use of non-Jordanians in professions listed as such. In practice this means the migrant workers who are engaged in closed professions work irregularly due to the impossibility of obtaining permission to do so in principle. In addition, being recruited into such professions and businesses would be at a lower cost in comparison to being recruited into closed professions. Regarding the decision of minimum wage, the minimum wage was set at 150 JOD with the exception of workers in the garment sector, domestic workers, cooks, gardeners and the like. The minimum wage of the exempted categories was set at 110 JOD.

It is noteworthy that the minimum wage for Jordanian workers is 190 JOD. The difference in wages between Jordanians and migrant workers constitutes a form of discrimination and violation of one of the most important humanitarian principles highlighted by the Universal Declaration of Human Rights that people are born free and equal in dignity and freedom and that everyone without discrimination has the right to equal pay for equal work.

Some of the instructions which influence the status of irregular migrant workers are the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers of 2009 which excludes domestic workers and garment workers. Regardless of the conditions included in the instructions, it is noteworthy that Article 10 requires the recruitment or renewal of non-Jordanian workers based on the needs of the labor market, taking into account the list of closed professions. This means that workers are recruited into a two-year employment contract but his/her work permit may not be renewed one year after from the contract's starting date. Article 11B of the mentioned instructions obligates the employer to inform the concerned directorate of labor (the directorate which issues the permit) immediately of the non-Jordanian worker's departure or escape within the period of validity of the work permit. It is notable that paragraph C of the same article requires a foreign worker to inform the directorate which issued his/her work permit as soon as he/she leaves the work during the validity period of the work permit. If the worker fails to do so, he/she will not be granted a work permit with any other employer. Additionally, in the cases reported the migrant worker is not able to obtain a work permit with another employer unless his first employer agrees to it. Moreover Article 12 of the instructions included a number of provisions that restrict the movement of the migrant worker from one employer to another. All the mentioned provisions have an important impact, sometimes negative, on the status of migrant workers and their legal position in Jordan. It particularly impedes the worker's right to choose his/her place of work,

compelling the worker to flee in order to change his/her work or employer. As a result the migrant worker then becomes irregular.

Another notable by-law is the Regulation No. 90/2009 of domestic workers, cooks, gardeners, and other workers who fall within that sector. This by-law places the responsibility of covering the cost of the residency, work permit, flight ticket of the worker after two years of employment, on the employer. It can be noted from this provision that in the case of reluctance of the employer to renew the residence permit of the migrant worker recruited by him, the person liable is the foreign migrant worker and not the employer. Since the Residence and Foreigners' Affairs Law fines the worker in this case and does not take into consideration that the violation was not caused by the worker himself/herself but by his/her employer. The by-law stipulates one day off per week for domestic workers, 14 days of sick leave and an annual leave of 14 days per year. This allows labor inspectors to conduct inspections of the worker's accommodation upon receiving a complaint against him/her after the approval of the house owner. It is worth noting that the protection stipulated in this by-law for domestic workers is insufficient, particularly because it does not include a real or safe guarantee that the employer will renew the work permit of the worker. In this context, it is important to indicate that the law of protection from domestic violence enforced in Jordan also does not include domestic workers. It is a large defect that contributes to the worsening conditions of migrant workers.

In any case the Jordanian authority should exclude any legislative provision inconsistent with the provisions of conventions relevant to irregular migrant workers should the competent authority not amend it in order to correspond with these conventions. It also should interpret and implement such legislation in light of its contents and according to the provisions it stipulates. The Residence and Foreigners' Affairs Law 24 of 1937 was passed and provided the legal provisions related to the entrance and residence of foreigners. By reviewing the Residence and Foreigners' Affairs Law, a number of

observations related to the victims of human trafficking were highlighted. The law lacks any articles granting victims of trafficking temporary residence, or taking into account the humanitarian conditions in cases of repatriation. It is also devoid of protection mechanisms for the prevention of human trafficking in terms of criminalizing the trade in residence permits. Additionally, it does not provide any strict mechanisms that allow migrant workers to lodge a complaint in case the employer refuses to renew a residence permit with the possibility of clearly and explicitly linking between the Residence and Foreigners' Affairs Law and the Anti-Human Trafficking Law.

In addition to the above, the Residence and Foreigners' Affairs Law is devoid of basic principles which are considered pillars upon which the residence law should be founded, namely:

First, respect the principle of non-refoulement which stipulates the inadmissibility of returning any person who believes he/she will be subject to torture or any other form of human rights violation.

Second, ensure compatibility of the law with the general principles of international humanitarian law including ensuring that it does not include any provision that may impede in any way, any of the foreigner's rights, particularly migrant workers' rights, regardless of their status or means of arrival to the country. In particular the law is not allowed to subject migrants or foreigners to more risk of abuse from the moment of their arrival till the moment of their departure.

Third, ensure that the procedures of forced deportation are enshrined in procedural and subjective guarantees that safeguard a minimum limit of appeal for a judicial decision for deportation. The decision should be reasonable, and specialized translation and legal assistance must be provided until the implementation of the deportation.

In this section of the report we will shed light on the working conditions of domestic workers in Jordan and of the Syrian workers who fled to Jordan as a result of the instability of security in their home country, searching for job opportunities to provide a decent life for themselves and their families. It also highlights the working conditions of the workers in the QIZ and the most prominent abuses to which they are subjected.

## Syrian workers

The influx of Syrian refugees to Jordan started in the earlier stages of the Syrian conflict, mid-March 2011. At that time, there were small waves of refugees coming to Jordan and it was exclusively Syrian residents from areas close to the Jordanian border, particularly those living in Dara'a. The majority of refugees came to the northern cities of Jordan and stayed with Jordanian relatives with whom they had connections prior to the conflict. After the intensification of the conflict and its expansion to various regions of Syria, the flux of refugees began to increase from different areas to neighboring countries such as Jordan, Lebanon, Iraq and Turkey. As a result the number of Syrians fleeing their country exceeded three million according to the UNHCR. Jordan welcomed the largest bulk of them. The number of Syrians now living in Jordan has reached 1,800,000 people. 747,360 refugees are registered by UNHCR as of January 2015. 14,500 of them are Palestinian refugees who had been residing in Syria. 50.7% were female while 49.3% were male. In addition to 700,000 Syrians who were residing in Jordan since before the Syrian conflict all of who were not able to return.

Jordan has four camps for Syrian refugees. The largest is Za'atari which houses 83,848 refugees according to UNHCR, the camp established by the United Arab Emirates known as Mrajeeb Al Fhood housing 5,111 refugees, Al Hadiqa camp located in Ramtha in the far north of Jordan, housing 820 refugees, and Mehkheizen al Gharbia camp in Azraq, eastern Jordan, housing 13,903 refugees in addition to the Cyber City compound housing 470 refugees.

Accommodation is often a major concern for refugees and host communities. One apartment can be shared between several Syrian families. Some cases were reported in which as many as 20 people shared single living space with three rooms, as a result of a desire to pay lower rent and because the monetary aid from UNHCR and other NGOs is rarely sufficient to cover the cost of rent. This causes many families to live in extreme poverty and striving to find alternative



sources of income. Syrian refugees constitute about 15% of Jordan's population, distributed across all governorates. Most of them reside in the capital, Amman with a rate of 27%. 22% of them live in Irbid governorate, 13% in Za'atari refugee camp and 12% in Mafraq.

Data from the Ministry of Labor indicates that the total number of Syrian workers who have been granted work permits since the beginning of 2016 till Tuesday 25<sup>th</sup> October 2016 is 31,209 mainly in the agricultural sector with 8,445 permits and in the manufacturing industry with 5,346 permits. The Ministry of Labor estimates the range of economic activity among Syrians to be 28% equivalent to approximately 217,952 Syrian workers while the total number of Syrian employees residing in Jordan before and after the refugee crisis, in a regular or irregular status, is 85,000 workers. The number of unemployed Syrians in Jordan before and after the crisis amounts to 132,950 people who are continuously in search of employment. According to preliminary estimates in the study "the impact of Syrian refugee influx into the Jordanian labor market" conducted by the Economic and Social Jordanian Council in early 2016, indicate that Syrian workers occupy 143,000 job opportunities in various economic sectors, particularly unregulated sectors of the economy.

This study highlights the Syrian workers' willingness to work in "inappropriate" conditions, in terms of long hours, low daily wages, poor working environment in addition to other elements related to the Syrian worker's perception of having a job, in addition to the employer's perception whether Syrian or Jordan, that employing Syrian workers is a significantly cost-effective practice. As a result these factors lead the employer to give preference to Syrian workers.

One of the most prominent impacts of the increase in activity of Syrian workers under the Labor Law is the increase in irregular migrant workers, coupled with the increasing pressure of lowering wages and due to the weak enforcement of laws. This enables the employers to employ irregular workers and pay them below the minimum wage of 190 JOD or the equivalent of \$268.

On the other hand, the Syrians' enrollment in the labor force has put pressure on the levels of the labor market leading it to regress. The high presence of Syrian workers in Jordan led to a decline in appropriate working conditions, indicators and fundamental labor rights in most irregular economic sectors and the small to medium sectors of the economy which include working within irregular working relations. This regression affected the conditions of workers' recruitment in different sectors whether they are Jordanian, Egyptian or Syrian migrant workers since the working hours increased across various working sectors, reaching up to 16 hours per day in many institutions. This deprived the workers of vacation, sick leave or official annual holidays. Moreover this caused a delay in payment of salary for periods of time exceeding the minimum stipulated by Jordanian law, in addition to a decline in job stability for the vast majority of workers, under the threat of losing their job.

### **The work of Syrian migrant workers**

The Syrian refugees are subject to Jordanian Labor Law in their work in Jordan, apart from by-laws, instructions and decisions issued by the Ministry of Labor. The work of the Syrian refugees falls under Article 12 of the amended Labor Law 26 of 2010 which states that the terms of the migrant workers' recruitment and mechanisms must be governed by the instructions issued by the Ministry of Labor. Those who violate these regulations will be fined not less than 200 JOD and no more than 500 JOD with the exception of the work permit fees which range from 60 JOD to 825 JOD.

With regards to the international conventions governing the work of refugees in the Hashemite Kingdom, Jordan is committed to the international conventions and covenants, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights particularly when related to refugees. However it has not ratified the 1951 United Nations Convention and the protocol of 1967 relating to the Status of Refugees as it is only bound by a

Memorandum of Understanding signed between the Jordanian government and the UNCHR.

The International Covenant on Economic, Social and Cultural Rights Part 3 Article 7 stipulates that each person has the right to enjoy just and favorable working conditions which ensure in particular: providing all workers with fair wages and equal remuneration for work of equal value without distinction of any kind, women in particular being guaranteed conditions of work not inferior to those enjoyed by men with equal pay for equal work, a decent living for themselves and their families in accordance with the provisions of the present covenant, safe and healthy working conditions, equal opportunity for everyone to be promoted in his/her employment to an appropriate higher level, subject to no consideration other than those of seniority and competence, rest, leisure and reasonable limitation of working hours, periodic paid holidays as well as remuneration for public holidays.

According to the decision of the Ministry of Labor, passed early 2016, it was decided to close several professions to migrant workers which is also applicable to Syrian workers. These professions can only be filled by Jordanian workers. The Minister of Labor, Mr Nedal Al Qatameen, confirmed that creating job opportunities for Syrians will occur through investments although priority will be given to Jordanian workers. Qatameen added that Jordanians will not be negatively affected by keeping jobs and professions reserved for them. For other professions, Syrian workers will be subject to Jordanian Labor Law requiring information and statements, following instructions and most importantly, the issuance of a work permit by the employer with a cost ranging “from 600-800 JOD in case of recruitment,” before being permitted to work in the Jordanian labor market.

## Working conditions

- **Wages and salaries**

One of the most important challenges facing the majority of Syrian workers in Jordan is the low level of wages. In spite of the disparity of wages based on their skills, and according to the sample of 250 workers interviewed, the majority, at 40.2%, earn less than the minimum wage of 190 JOD per month while 36.5% earn between 190 and 250 JOD. High-skilled Syrian workers have salaries ranging between 260 and 500 JOD at a percentage of 23.3%.

**Table: A table clarifying the wages received by Syrian workers according to the sample**

Percentages	Wages
40.2%	Less than 190 JOD
36.5%	Between 190 JOD – 250 JOD
23.3%	Between 260 – 500 JOD
100%	Total

Mahmoud is a bleacher. Mahmoud says his daily wage ranges from 10-20 JOD if he has the opportunity to work, pointing out that his work starts at 9 am till 6 pm.

Samir, 26 years old, works in car wash in Irbid, says that the severe poverty and lack of sufficient assistance to Syrian refugee families led him to search for any job opportunity.

Abu Mohammed is a Syrian refugee working in the agricultural sector in olive harvesting works for a wage of 5 JOD per day. Housing for him and his family was provided with the employment.

Young Syrian Ahmad works 12 hours a day in a fast food restaurant in Amman. He shares a house with his comrades. He mentions that he has learned the profession well and receives a monthly salary of 200 JOD.

- **Transcription to social security and medical insurance**

Although it is mandatory to have workers under the umbrella of social security, many of the workers interviewed were not covered (54.1%), which is considered a violation of paragraph C of Article 20 of the Social Security Act. Regarding health insurance, none of the workers interviewed were provided with health insurance.

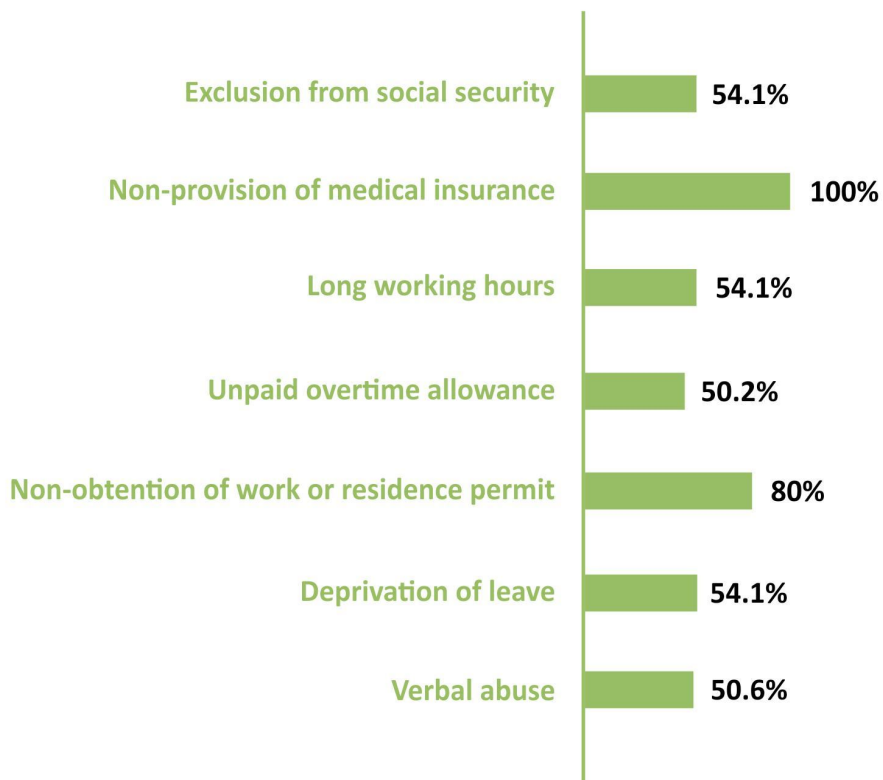
- **Vacations and official holidays**

Regarding official holidays and vacations, the majority of workers do not receive any at 54.1%. This is considered a violation of paragraph A of Article 61 of the Jordanian Labor Law stipulating 14 days of annual leave and 21 days for those who have been working in the same company for five years and more. With regards to sick leave, the majority of workers are deprived of their sick leave of 14 days per year, which can be extended to 28 days subject to certain conditions. This is considered a clear violation of Article 65 of the Labor Law which clearly states “each employee shall be entitled to fully paid 14 days sick leave based on the report of a physician approved by the establishment. It shall be renewable for another fully paid 14 days shall he be hospitalized and based on a report from the medical committee that is approved by the foundation.”

In addition, Syrian workers are exposed to numerous violations such as denial of overtime allowance, being subjected to verbal abuse, non-issuance of work and residence permits.

**Table: Table presenting the percentages of violations that the interviewed Syrian workers were subjected to.**

Violations	Percentage
Exclusion from social security	54.1%
Non-provision of medical insurance	100%
Long working hours	54.1%
Unpaid overtime allowance	50.2%
Non-obtention of work or residence permit	80%
Deprivation of leave	54.1%
Verbal abuse	50.6%



## **Working conditions of Syrian refugee women**

51% of Syrian refugees are female, 15% of who are employed in various professions such as sewing, confectionary and pickling. Syrian refugee women suffer harsh consequences of the Syrian war even while in Jordan, such as loss of family members, the absence of the breadwinner, the lack of accommodation and the double struggle of maintaining the remaining family members.

A study conducted by Care International indicates that 28% of Syrian refugee households are led by women, and 35% of these breadwinning women work as domestic workers in Jordanian homes. However, UNHCR reports reveal 145,000 Syrian women in host countries are in charge of running their homes.

Under the conditions of asylum, Syrian women seeking employment in the Jordanian market are exposed to similar violations to Jordanian women. However the recourse conditions of their asylum and the exploitation of their need to work increases the number of abuse cases. This abuse comes in the form of non-payment of wages, expulsion from work without pay after several days of work, and harassment by their employers.

Suffering from asylum might end in time while human abuse causes worse pain for Syrian refugee women seeking to earn a livelihood to protect her from relying on charity. For the purposes of this report, Tamkeen Fields for Aid has interviewed 50 working women of Syrian nationality working in the garment, textiles and services sector. They have had to resort to work in an irregular status in simple professions in order to avoid obtaining work permits, and the subsequent fees and the importance of having a valid passport.

A number of cases interviewed emphasized their need to work in light of inadequate assistance provided to them and their families in order to ensure the continuation of their livelihood. The working women interviewed earn between 200-250 JOD per month for long



hours of work without any paid overtime allowance or without coverage by social security, or without being provided with any labor rights under the pretense of providing employment or that their work is not official. Additionally there are workers in gainful employment on a day-to-day basis. They receive their wages according to the products they sell, such as clothes they sewed, pickles or other popular foods they have prepared themselves.

## **Working conditions of Syrian refugee children**

The work of Syrian refugee children is concentrated in certain sectors, most notably the service sector (restaurants, hotels and retail). The majority of working children, whose age does not exceed 16 years, work in illegal and inappropriate working conditions. In addition, there are children between the ages of 5-15 years who are represented in abundance in the labor market and facing poor working conditions.

Child labor is concentrated among males although a percentage of females working in child labor does exist. The females are subjected to two-fold violations in comparison to their male counterparts due to the harsh conditions of their work as well as their gender.

It is noteworthy that Jordanian Labor Law prohibits child labor under the age of 16 while it defines certain professions for children between 16 and 18 years of age. The law stipulates 29 dangerous professions from which children are prohibited from working in. It enacts penalties for violations of this law.

The majority of Syrian child workers do not receive fair wages. They earn less than the minimum wage of 190 JOD for Jordanians and 150 JOD for migrant workers in addition to their long working hours without compensation.

Many reasons push Syrian children to work in spite of difficult conditions. These are extreme poverty, absence of social security

related to the financial situation of their family as many of their families fled their country without their belongings or money. This forced them to have their children drop out from school to assist them at work to pay rent for their accommodation and meet their daily needs. In addition to these reasons, there are families that cannot secure an educational environment for their children. Therefore they send them to the workforce in the presence of Jordanian employers who desire to recruit Syrian children for their low wages. In such aspects, this study calls on the international community and donors to provide more support to refugee families as well as helping them enroll their children in the educational system.

According to official and unofficial research, child labor negatively impacts the mental and physical welfare of children. It also affects their education and their future prospects.

It is noteworthy that some employers take advantage of the refugee families, particularly those working in the informal economy. This adversely affects Jordanian families and their income. This study recommends that the government work on finding specialized projects and industries for which Syrian refugees may legally apply to work. This will enable them to secure stable income and contribute to the host country without causing host communities to lose their livelihoods.

## Migrant workers in Jordan

Migrant workers occupy more than 63% of jobs created in Jordan. Over 90% of them hold jobs requiring low skills according to the ILO while 600,000 to 800,000 Jordanians work abroad. This amount represents half of the Jordanian workforce. Most of them are skilled workers. Migrant workers are employed in order to give lower wages, increasing the profit margins of the employer, particularly in rentier or low-value activities. The number of undocumented migrant workers in Jordan is about 300,798 while the number of irregular workers rose to be 600,000.

### **Migrant workers are subjected to various types of violations which are:**

**First**, passport confiscation with the purpose of preventing the migrant worker from departure and bargaining a trade off with the worker, particularly unpaid wages, in order to force them to accept the reality of their exploitation. In spite of the fact that Jordanian law punishes passport confiscation, this violation is still significantly practiced.

**Second**, the poor working and living conditions of low to medium skilled workers is often very dangerous particularly in the construction sector. Usually they work in very hot weather and in very humid conditions all year long. This exposes them to many diseases and accidents. This problem is exacerbated by the non-compliance of the employer with health and safety regulations in the workplace. Low-skilled migrant workers, particularly the Arab minorities, live in shared accommodation whether in their place of work or in old houses. The population density in these houses is high and lacks comfort and safety.

**Third**, violating the migrant workers' rights does not start when they begin working. Rather, it begins in the recruitment process itself with the agencies in the country of origin as well as in the host country.

The harsh conditions in the countries of origin and the migrants' dire need for work pushes them to pay high amounts of money to agencies in order to secure jobs abroad. Often the workers resort to borrowing money to cover the costs forcing them to pay two or three months' salary to the recruitment agencies to cover their debt.

**Fourth**, forced labor and trafficking in persons: low skilled migrant workers are the most vulnerable to trafficking in persons and forced labor. Usually, victims of trafficking have limited financial resources and are in debt. In addition, they are of low education level. In many cases, the victim is subject to fraud in terms of the nature of his/her work, therefore he/she finds himself or herself in a situation different to that which was agreed before departing his country of origin.

Estimates indicate that around 600,000 migrant workers in the Middle East are working in forced labor. And these countries earn around 8.5 billion dollars as a result of the forced labor trade.

**Fifth**, the "*kefala* system" (sponsorship system): Despite the fact that word '*kefala*' or '*kafil*' (sponsor) are not mentioned in Jordanian legislation, the features of the system are practiced in the form of linking the worker with his/her employer, and depriving the worker from changing his employment or moving to work for another employer without the approval of the original employer. Furthermore, Egyptian workers are not allowed leave the country without the approval of their employer. Moreover the legislation granted the employer the only right and authority to issue and renew residence and work permit without the presence of the worker. The committee of experts for the application of the standards of the ILO confirmed that the sponsorship system may lead to forced labor imposed on migrant workers. On the other hand, the International Trade Union Confederation considers the sponsorship system a contemporary form of slavery.

## Domestic workers

The history of recruiting migrant domestic workers in Jordan returns to the 1980s due to the increase in numbers of working Jordanian women and the improvement of living conditions, in addition to the relocation from villages to cities. This led society to move away from the extended family system which used to enable the shared caring of children.

Domestic work is considered an essential element in the process of maintaining the home. In spite of this, it is often neglected and dropped to the level of informal economy. The workers in this sector are typically marginalized individuals. They are women from different origins and ethical values. They come from socio-economic backgrounds which are more disadvantaged and are more in need. Domestic work usually assigned to domestic workers includes house cleaning, washing dishes, washing and ironing clothes, washing cars, childcare, playing with children and preparing them for school, accompanying them to the school or school bus, caring for the elderly and sick relatives, accompanying family to carry shopping from markets and supermarkets. The domestic workers must also be on call 24 hours per day.

Working within the domestic realm, and private life, makes domestic workers vulnerable to exploitation since they do not have access to adequate means of remedy when subjected to abuse. The last years have seen an increase in the number of domestic workers in many national and international reports and media attracted attention to the abuses that this segment of society is exposed to, such as ill-treatment, confinement to the home, leading many “sending” countries to ban the sending of domestic workers to work in the Kingdom.

The conditions of poverty and unemployment, absence of an appropriate quality of life in the countries of origin cause hundreds of thousands of workers to travel and work as domestic workers in

Jordan. Many of them face huge comprehensive and systematic violations. This is due to several reasons, most importantly the recruitment system which entrenches the violations practiced against domestic workers as well as the places of work where domestic workers suffer from total or almost total isolation, in the presence of dozens of violations to which she is subjected. This is in the presence of provisions criminalizing the worker's escape from the workplace. Jordanian legislation contains provisions promoting ill-treatment.

Despite the important legislative reforms undertaken in recent years in Jordan in terms of the regulations for recruitment of domestic workers, the opportunities for domestic migrant workers to obtain their fundamental human rights and protection are still weak, than that if their opportunities for rights were already present on the ground.

### **Domestic workers subjected to violations represented according to the complaints filed in Tamkeen Fields for Aid as:**

- **Confiscation of personal documents**

The confiscation of personal identification documents is a common violation against all migrant workers, particularly domestic workers. The complaints of domestic workers who approached Tamkeen confirmed that they do not carry any documents to prove their identity, neither passport, residence permit or work permit. These documents may be possessed by the employers or the recruitment agencies. Simultaneously, the employers or the agencies do not deny they are confiscating the identification documents of the workers under the pretext that this is the only guarantee to keep the domestic worker in the home and not escape and/or return to her country of origin. In other words, they remain as their hostage, despite their knowledge that confiscation of identification documents does not prevent workers from escaping the workplace. Many times the domestic worker does not know where her passport is, be it with

the employer or the agency, since she was stripped of her passport once she entered the country.

Passport confiscation is a clear violation of Article 12/4 of International Covenant on Civil and Political Rights as it is also a violation of Article 18 of Passport Law 3 of 2002. In addition, it is a violation of Article 222 of the Jordanian Penal Code. Such confiscation of identification documents hinders the return of the worker to her country of origin or resorting to judiciary for not possessing proof of her personal identity.

- **Not possessing a copy of the employment contract**

The majority of domestic workers do not possess a copy of their employment contracts signed in their country of origin, since it was confiscated by the recruitment agencies upon their arrival according to their testimonies. Therefore, it is difficult for the worker to prove her rights according to the terms of the contract. This constitutes a clear violation of the provisions of Article 15 of Labor Law and the provisions of by-law 19 of 2009.

- **Verbal, physical and sexual abuse**

Many domestic workers are subject to physical abuse such as beating by employers or agencies. This may be caused by not performing duties to the satisfaction of the employer or to her refusal to work in the employer's point of view. Some domestic workers are exposed to having their hair cut, considered an insult to their dignity.

The majority of workers are exposed to verbal abuse. Strangely, in many cases domestic workers are accustomed to these abuses due to the perception of inferiority that they develop.

For sexual abuse, which includes harassment and rape, it is difficult to prove due to the uniquely private working conditions in which they are operating. Since confining the worker to the home makes it difficult for the worker to report an abuse when it happens, some workers may also surrender to the employers' desire since they feel they cannot refuse and they are not able to access judicial remedy. Currently there is no effective system for monitoring and reporting abuses committed against domestic workers.

- **The right to terminate employment relationship**

The Ministry of Labor requires the original employer's consent, who is often arbitrary in granting this consent or will ask for additional money to do so. These practices enhance the employer's absolute control over the domestic worker and enforce their absolute subordination to the employer. In the case of the employer's death, the Ministry of Labor requires the consent of his/her next of kin to allow the worker to change employer. As a result, Tamkeen finds that these practices of the Ministry of Labor cause the absolute dependence of the worker on the employer which continues even after the death of the employer. Article 6 of the International Covenant on Economic, Social and Cultural Rights emphasizes the need to have the worker's approval in order to work in freedom.

- **Fines**

The failure of some employers to fulfill their obligations to issue work and residence permits for domestic workers leads to the worker finding themselves in an illegal status. In addition to the inability to return to their home countries due to accumulated residency fines, the workers cannot obtain work permits individually since it must be obtained by the employer or his/her authorized representative. These practices are flagrant violations of Article 4A of by-law 90 of 2009 which obligates the employer to cover the cost of issuing residency and work permits for the worker on an annual basis. It is also a violation of provision of Article 12 of Labor Law. In spite of the fact that the fault is committed by the employer, the punishment is imposed on the worker who becomes liable for arrest for the violation of the Residency Act which imposes a fine of 1.5 JD per day. And although the unified work contract stipulates the employer's obligation to issue work and residence permits every year at his/her own expense, and even in the contrary the employer is obliged to pay all fines stipulated in Article 34 of Residence and Foreigners' Affairs Law. However in reality the punishment is levied on the domestic worker who is punished by being unable to leave the country unless she pays all subsequent fines. This is considered a violation of Article



12 B of the International Covenant on Civil and Political Rights which stipulates that “everyone shall be free to leave any country including his or her own”.

- **Long working hours and the deprivation of vacation**

Domestic workers suffer from long working hours which may exceed 16 hours per day. Tamkeen noted that workers arrive to Jordan without having received any training on the duties they are expected to perform for the family recruiting her. Particularly due to the fact that domestic workers, according to the common understanding of her tasks, is expected to undertake cleaning, caring for children, elderly and the sick, preparing food, and caring for pets. On the other hand, the recruiting family examines the worker’s file which contains a photograph, general information such as age, marital status, number of children and previous experience. Some domestic workers find themselves unable to carry out the tasks assigned to them. For instance, if they were recruited to carry out cleaning, they are surprised when requested to care for the sick and the elderly and when they are forced to work in more than one home. Therefore the majority of workers suffer from very long working hours in addition to being deprived of their weekly day off. Although Article 6A of the Regulation 90 of domestic workers, cooks, gardeners, and other workers of 2009 defines working hours as eight flexible hours. As well as Article 7 of the same by-law stipulates one day off per week for the domestic worker to be agreed on with the employer and in the case where the employer is forced to make the worker work on her day off, the employer should compensate her with another day off to which they both agree.

- **Unpaid wages and overtime**

The domestic worker bears the pain of homesickness and alienation in order to save money for her family. However some domestic workers suffer from the employer’s delay in paying their salaries, if at all. Some employers intentionally delay the payment of wages particularly in the initial months with the excuse of ensuring her suitability for the work. In the case of non-suitability, these wages are

compensation for the employer. It was noted that sometimes that this is a deal struck between the employer and the recruitment agency in order to reduce the wage of the domestic worker mentioned in the contract without obtaining her approval. Nonpayment or delay in giving wages is a violation of provisions of Article 7 of the International Covenant on Economic, Social and Cultural Rights and the provisions of Articles 4 B and 6 A of Regulation 90 of domestic workers, cooks, gardeners, and other workers of 2009 which stipulate that the employer should pay the monthly salary to the worker in Jordanian dinars or equivalent in a foreign currency according to the means and ways defined by the foreign minister. None of the domestic workers received by Tamkeen have received any allowance for overtime work.

- **Forced confinement in the employer's house**

The domestic worker is not allowed to leave the house of her employer which is considered as a restriction of her freedom of transportation and movement. Therefore the worker is forced to stay under the control of the employer against her will and making the reporting of violations very difficult, in addition to the psychological and social difficulties that she faces if subject to physical or sexual abuse. In addition to forced confinement constituting an obstacle to the worker to demand her rights or prove being subjected to physical or sexual abuse, she may not be able to escape until days following the occurrence of abuse. Tamkeen clarifies here that article 5/A/5 of Regulation 90 of domestic workers, cooks, gardeners, and other workers of 2009 forbids the worker from leaving the house without the consent or knowledge of the employer. In the case where she escapes, without the employer being the cause of her escape, this obliges the worker to bear all subsequent costs including her repatriation to her home country according to Article 5C of Regulation 90 of domestic workers, cooks, gardeners, and other workers. This means that the provisions of the by-law clearly contradict the provisions of Article 12.1 of the International Covenant on Civil and Political Rights which clearly stipulates that “everyone lawfully within the territory of a state shall, within the territory, have

the right to liberty of movement and freedom to choose his residence” and in accordance with the covenant, the state party must protect the rights stipulated in Article 12 from any interference whether from private or public entities.

- **Not receiving healthcare**

Some domestic workers complain of healthcare expenses being deducted from their salaries. In some cases, the employer refrained to provide the worker with adequate healthcare. Moreover if the employer found that the health status of the worker requires continuous treatment, he or she returns the worker to the recruitment agency. In this case, exploitation starts with the agency forcing her to work on a daily basis to cover the costs of her recruitment and/or any additional expenses. Although, Regulation 90 of domestic workers, cooks, gardeners, and other workers of 2009 stipulates that it falls within the employer’s obligations to provide the worker with healthcare in accordance with Article 4H. However there is no clear definition of the right to healthcare that the worker shall enjoy. In spite of the fact that each worker has insurance against accidents and death, there are some cases that Tamkeen met in hospitals of women who fell off balconies in the homes where they were working. The employer left the worker in the hospital and disappeared. The domestic workers remained hostages in the hospitals until they covered the cost of their treatment. In addition, the non-renewal of the work permit deprived the workers of their insurance against accidents and death.

**Table: Number of complaints filed by migrant workers in Tamkeen during years 2009-2016 illustrated in the table below.**

Number	Year
221	2009
321	2010
613	2011
800	2012
464	2013
533	2014
363	2015
429	2016

## **Workers in the Qualified Industrial Zones (QIZ)**

The Qualified Industrial Zones, usually referred to as QIZ, are a product of a Free-Trade Agreement (FTA) signed between the Jordanian and United States governments in 2000 and ratified in accordance with Law 24 of 2001 based on the provision of Article 33/2 of the Jordanian Constitution.

Article 6/1 of the agreement highlights the obligations of both parties as members of the ILO to consider the necessity of respecting the workers' rights which are recognized internationally and protecting these rights through the national law of both countries. Article 6/6 identifies the worker's rights recognized internationally and which are binding for both parties as follows:

- The right to form trade unions and federations
- The right to organize and bargain collectively
- The prohibition of the use of any forced or compulsory labor
- Minimum age for employment of children
- Acceptable conditions of work with respect to minimum wages, work hours and occupational health and safety working conditions.

## **Instructions governing the recruitment of migrant workers in the QIZ**

In 2007 the Ministry of Labor passed instructions of the recruitment terms and procedures of non-Jordanian workers in the QIZ according to Article 4 of Regulation No. 36 of 1997 concerning work permit fees for non-Jordanian workers and its amendments.

These regulations based on Article 5 linked the consent of issuing work permits for non-Jordanian workers with the reports issued by the investment board and the Directorate of Labor Affairs and inspections at the Ministry of Labor about the reality of the institution. In addition to the report, issued by the Employment and Training Department of the Ministry regarding what the institution has achieved in terms of practical measures to gradually replace the migrant workers with Jordanians and the production capacity of the institution. The non-compliance of the Ministry with these standards is clear as the number of Jordanian workers is declining steadily.

It is not permissible for the worker recruited in the QIZ to move to any other sector. Moreover the employer carries the responsibility of repatriating the workers to their country of origin following the legal termination and expiry of their contracts; and to duly give proof of their departure.

The employer shall provide annual bank bonds based on the number of employees (from 1-100 workers 30,000 JOD, from 101-200 workers, 50,000 JOD and from 201 and over, 75,000 JOD). These are automatically renewed based on a decision by the Ministry of Labor in the event where the employer breaching any commitment stipulated from him under laws, by-laws and instructions to ensure the rights of non-Jordanian workers in the QIZ.

It is notable that these instructions have not clearly stated the possibility of the workers' movement to work for another employer as the case in the instructions of recruitment terms and procedures

of non-Jordanians and its amendments of 2009 which addresses this topic in detail in Article 12. Thus we find that these instructions (2007 instructions) violate the principle of freedom of contract, stated in the International Covenant on Economic, Social and Cultural Rights.

### **The working environment in the QIZ**

The number of workers in the QIZ is 50,135 workers including 38,789 migrant workers distributed as 11,499 males and 27,290 females and 11,346 Jordanian workers distributed as 4,301 males and 7,944 females.

Many of them are subject to a range of abuses monitored by Tamkeen through the complaints received by the center and through field visits to interview QIZ workers.

These violations are represented in:

- **Non-payment of wages and overtime allowance**

Based on the Labor Law, the work contract and the standards of the Gold List, the company operating in the QIZ is committed to the minimum wages conditioning that such wage will be calculated and paid properly, in addition to introducing the workers to the means of calculating their wages. As a general rule, it is not permissible to force the worker to work overtime. Article 7 of the International Covenant on Economic, Social and Cultural Rights obligates the state parties to admit the rights of everyone to enjoy fair working conditions such as fair wages, right to rest, or right to break and leisure time, defining reasonable limitation of working hours and periodic paid holidays as well as remuneration for official holidays. Moreover, Article 8 of the International Covenant on Political and Civil Rights prohibits coercive, forced or compulsory labor which comes in various forms including forcing the worker to work for more than the scheduled hours or the ones agreed upon or recruiting the worker with lower wages than agreed, or the agreed upon paid remuneration.

Although the wages commission set the minimum wage at 190 JOD for Jordanians and 150 JOD for migrant workers, it excluded the

workers in the textile and garment sectors where the minimum wage is 110 JOD and there exists no justification for this exception.

The administration of many factories forces many migrant workers to carry out daily overtime work which contradicts what has been stipulated in the conventions of the relevant International Labor Organization laws, the Jordanian Labor Law and the standards of the Gold List since this work is optional. In addition to being forced to work overtime, some factories do not pay overtime allowance.

Regarding monthly wages, the total wage that the worker receives as many interviewed workers reported, is a maximum of 135 JOD including overtime. There is no clear explanation for the undertaking of deductions, and many workers complain of being subject to beatings, verbal abuse if they ask about the reasons for the deductions in their wages. Added to that, the delay in paying wages for periods of time can last for months. This is in addition to the denial of the annual increase in wages. The workers interviewed having worked for the same factory for 3 to 4 years reported never receiving any increase in salary.

The center has witnessed cases of nonpayment of wages for workers including cases of the factory's closure due to bankruptcy or the escape of the factory owner particularly as the market value and bank bonds cannot cover the wages which leaves the workers in a situation of misery and loss. Since it is difficult to move to another factory, it is a violation of Article 12/F of the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers in the Qualified Industrial Zones.

- **Long working hours and denial of vacation**

In one of its field visits, Tamkeen conducted numerous field interviews with workers working in various factories. The workers stated that they work for long hours since their working hours used to range between 14-16 hours per day from 7.30am until 9.30 or

even 11pm. The workers said some colleagues in one particular factory start working from 7.30am until midnight.

Another group of workers interviewed mentioned that they are allowed to take one day off every two weeks. They obtained this right after carrying out a strike. Another group confirmed that they do not take any weekly days off. Regarding religious and official holidays, the workers anonymously agreed that the factories do not permit such holidays. All workers agreed that they do not receive annual leave.

It is important to note that there are some means to which the factory owners resort in order to exploit the workers' need for money, including the factories' calculation of wages according to items produced. This leads workers to work on the production of the largest numbers of products. The factories reward workers who do not take any sick leave with 10 JOD.

- **Forced amendment of the employment contract**

The Labor Law highlights the consensual nature of the employment contract. Article 15 of Labor Law obliges the employer to draft another copy of the contract in a foreign language, if the worker does not speak Arabic, according to instructions issued by the Ministry of Labor. Article 6 of the International Covenant on Economic, Social and Cultural Rights emphasizes the necessity of the worker's consent to his or her work freely and by choice.

Many workers reported that they sign the contracts in their home countries which stipulate some rights such as securing food, accommodation and healthcare. However upon arrival to Jordan, factory management confiscates the contracts and forces the workers to sign different employment contracts with lower wages than the ones agreed on and signed in their home. The workers are not allowed look at the contracts since they are asked to sign them after folding the pages showing only the space for their signature. Most workers emphasize they do not possess copies of the contract.



The center considers these changes to the employment contract constitute forced labor.

- **Physical abuse and sexual harassment**

Article 29 of Labor Law gives the worker the right to leave work without notice while retaining his or her legal rights and the subsequent compensation and damages in case he/she is attacked by the employer or his/her representative at work. Or for being subjected to beatings, torture or any forms of sexual abuse which are punishable under the provisions of the enforced legislation. It is possible for the Ministry of Labor to decide to close the institution as long as deemed appropriate. Article 7 of the International Covenant on Civil and Political Rights confirms that it is not permissible to subject any person to torture or cruel or inhuman treatment or degrading punishment.

Some factory managers resort to physical or verbal abuse to impose control over workers and prevent them from claiming their rights and force them to work. A number of allegations were recorded indicate that women were subjected to sexual harassment by factory management staff. A female worker reported that her colleague was raped by the director of production at the factory. The director repatriated her to her country.

- **Deprivation of healthcare**

In accordance with by-laws and instructions issued under the Labor Law, the factories are obliged to provide the workers with free medical care through the provisions of necessary equipment of medical centers. In addition to the required number of specialized medical staff, Article 12 of the International Covenant on Economic, Social and Cultural Rights commits the state parties to recognize the right of all to receive the highest attainable standard of healthcare.

Nevertheless, based on complaints received by Tamkeen, it has been found that these standards are not adhered to. Sick leave is not permitted in some factories. Absenteeism due to illness has three day

wage deduction punishment. And workers are forced to work during their illness is commonplace. Furthermore there is no medical insurance for workers since some factories appoint private physicians while the workers bear the cost of the medicine and surgical treatment.

The workers are obliged to work for long hours in a hot environment. There is no adequate ventilation or lighting in the factories. Some workers reported that the factories do not distribute masks for them to wear to avoid inhaling dust and textile dust while others stated that factories provide them with masks, but these make them suffer of shortness of breath.

- **Passport confiscation**

Most of the workers interviewed and whose complaints were received mentioned that the management of the factories confiscates their passports immediately upon their arrival in Jordan despite that this constitutes a clear violation of Article 18 of the Passport Act and the standards of the Gold List. From a practical side, the worker loses his right to live a normal life when his passport is confiscated, due to his/her inability to prove his/her identity. This in some cases can lead to his non-recognition in his legal identity. This contradicts the provision of Article 16 of the International Covenant on Civil and Political Rights. This also hinders the worker's access to courts to claim his/her rights.

According to some of the workers, factory management might hand over the passport to their owner if they are subject to criticism by authorities and NGOs. However, they are then re-confiscated after a short period of time. Some factories have resorted to a legal ploy to confiscate their passports by forcing them to sign for their delivery to management to hold them based on their own free will.

- **Non-issuance of work and residence permits**

Tamkeen monitored the lack of commitment of some factory administrations to obtain work and residence permits for their employees breaching the previously mentioned legislation. This

matter puts the workers in a vulnerable situation as they are in violation of the law and are at risk of deportation and repatriation. The period during which the worker remains in the country without a valid work or residence permits ranged from eight months to four years. The failure to obtain a work permit leads to not registering the worker in social security which makes him/her lose his/her rights to medical insurance in the case of accident or injury in the workplace.

- **Non-provision of housing and appropriate meals**

The workers live in dormitories which are private property of the factory. Until the center's visit to some of these dorms in Sahab and Al Hassan Industrial city in Irbid, and according to interviews with the workers, these dorms are overcrowded. The number of beds ranges from 6 to 10 in each 3x4 meter room. The rooms lack ventilation and have high moisture. Sleeping areas are full of insects and devoid of hygienic conditions. Furthermore there are no closets to store clothes. Most of their personal items remain in their suitcases. The rooms are also devoid of heaters and the number of available blankets is insufficient.

With regards to health facilities, they are shared in the building. The degree of cleanliness is below average since there are no cleaning materials available. There are no kitchens. A three-ringed stove is available in some stair landings. Running water is available only a couple of hours every three or four days.

In terms of food, some factories serve appropriate, healthy and rich meals for lunch while other factories provide food devoid of any nutritional benefit with no consideration for the work and effort exerted by the worker. Based on some complaints from the workers, most of the food served is expired. Breakfast is noodles and half a piece of bread. Their lunch consists of a plate of vegetables, and fish once a week.

Some companies deduct 10-30 JOD on a monthly basis from the workers' salaries in order to provide them with food and

accommodation. Although the contracts stipulated that food and accommodation would be provided by the factory owner. The standards of the Gold List left this matter to the terms of the contract. It stipulated that any deducted amounts of money for food and accommodation should be governed by a valid employment contract signed by the workers of their own free will. The workers and textile union addressed the Ministry of Labor more than once to work on the abolition of the resolution of the amount of salary in exchange for living expenses. It succeeded in many occasions to reduce the value of the deduction.

Oddly, what is strange about the issuance of this legislative edict regarding deductions from remuneration is not applicable to minimum wage. Most surprisingly, the standards of the Gold List grant 10 points to the factory which deducts 0-11% from the minimum wages, five points if the deduction is between 11-23%. If the deduction exceeds 23%, the request to join the Gold List will be refused. According to these standards, the factories deducting 23% of salaries may join the Gold List alongside with factories who do not deduct costs at all.

- **Threat of deportation**

Deportation constitutes a terrible fear for the worker. His/her dependence and reliance on the salary that he/she receives constitutes a fundamental weakness. Therefore the threat of deportation is a form of exploitation that the employer resorts to force the worker to work inhuman conditions, overtime, suppress any claims or complaints, protests or strikes by workers. Some workers interviewed stated that often they resort to the threat of deportation if the workers carried out successive protests and fought for their rights, or in case the workers could not manage to produce a certain number of items of clothing, called "target". In the case of meeting their targets, the factory administration increases the target for the following month. The workers also receive threats if they file complaints to the labor office which is affiliated to the Ministry of Labor. Thus the workers are ready to bear all forms of violations in

order to remain in their jobs. Tamkeen believes that exploitation by management is “exploiting a form of vulnerability” which is listed under the definition of the crime of trafficking in persons. Most frequently this exploitation is enhanced by the constant threat of deportation based on provisions of the Residence and Foreigners’ Affairs Law.

## **Case characterized as trafficking in persons**

One hundred Indian and Bangladeshi workers, both male and female, in one of the factories in Al Hassan industrial city were subjected to human rights violations. Three female workers were terminated by the factory. Malicious reports were filed to administrative and security authorities with the aim to issue decisions of deportation for the women. In addition to directing “unrealistic warnings” in order to drop their demands for labor rights. The cause was the three female workers’ attempt to demand to improve their working and living conditions. Also, a number of female workers were exposed to beatings and taunts by the factory manager. The factory delayed the payment of the worker’s salaries until the 10<sup>th</sup> of each month, causing harm to the workers and their families in their home countries.

The female and male workers are housed in unsanitary conditions where every eight workers inhabit one poorly lit and ventilated room, causing the proliferation of insects. The bathrooms are unhygienic and in poor condition. No kitchens exist and the workers are not allowed to take sick leave regardless of their case. If the worker is ill and does not come to work, it is deducted from his salary. Significant amounts of their salaries are deducted in case of any minor error. These deductions can reach up to half of their total monthly salary. This is in addition to the confiscation of the personal documents and passports of 38 female Bangladeshi workers and one Indian male worker for four months under the pretext of obtaining their work and residence permits. To date, no actions were taken and no medical examinations have taken place.

## Occupational health and safety

The provision of a working environment safe from risks of different industries and the raising of the level of efficiency and means of prevention will undoubtedly lead to the reduction of occupational injuries and diseases and protect workers from accidents. This will reduce the number of lost working hours as a result of the worker's absence due to illness or injury in addition to the reduction of the cost of treatment and rehabilitation compensation. Compensation for occupational illnesses and injuries will inevitably reflect on the improvement and increase in the levels of production, pushing the economic power of the State.

Work accidents and injuries cause severe loss and damages. These losses can be moral or material, direct or indirect. Everyone is impacted by work accidents and injuries, whether the victim, the family or the institution. In addition to previously mentioned injury and death numbers, it causes enormous economic losses.

Occupational health and safety is defined as the science concerning the maintenance of health and safety of human beings by providing a safe working environment empty of causes of occupational accidents, injuries and illnesses. In other words, it is a set of procedures, rules and regulations in a legislative framework aiming at protecting the human being from the danger of injury or infection and maintaining the properties from the risk of damage and loss.

In this context, the ILO allocated 16 international labor conventions for occupational health and safety in addition to the recommendation underlining the importance of public safety in the work place. We indicate here that Jordan has only ratified three of said conventions which are the C119 Guarding of Machinery Convention, the C120 Convention concerning Hygiene in Commerce and Offices, the C124 Medical Examination of Young Persons (Underground Work) Convention. Until now Jordan has not ratified a number of relevant fundamental conventions on this topic, such as

the C155 Convention concerning Occupational Safety and Health and the Working Environment, the C161 Occupational Health Services Convention, and the C170 Convention concerning Safety in the use of Chemicals at Work.

The contents of Jordanian legislation on occupational health and safety conditions correspond with relevant international standards. The Jordanian Constitution in Article 23 stipulated the necessity of business institutions to consider health regulations. Labor Law 8 of 1996 and its amendments, Social Security Act 1 of 2014 and Public Health Act 47 of 2008 include a number of standards related to occupational health and safety, in addition to the by-laws, instructions and decisions that address the details of these laws.

Occupational accidents and diseases are the main causes of deaths and injuries among workers. The level of social security recorded that an accident took place every 33 minutes in Jordan. The occurrence of death at work takes place every five days. Since the establishment of the institution, the number of work-related injuries recorded amounts to over 430,000 injuries with a rate of 14,000 injuries per year.

According to reports issued by the social security institutions, the majority of incidents occur in the manufacturing sector closely followed by the retail trade sector, then the construction sector, tourism sector and the electricity, gas and water provision sector, followed by the transport, storage and communication sector. The remaining injuries are distributed across other economic sectors.

With regards to the type of work-related accidents and injuries, it varied between bruises and wounds, fractures and bone dislocations, sprains, despondency and shock. The rest is distributed among other types of injuries such as strange objects in the eye and the effects of high voltage and the shocks and blows of internal organs in addition organ-removal, amputation and poisoning.



With regards to the causes of injury and accidents at work, they are divided between falling objects, chemicals, machinery, appliances, transportation vehicles and loading vehicles and other things which may lead to work injuries.

In this context, reports were sent to Tamkeen concerning occupational health and safety, in addition to the observations collected from doctors and nurses who deal with migrant workers, particularly in the QIZ. The collected data confirms the absence of health, environment and public safety working conditions in many factories and companies where many workers are exposed to occupational diseases in addition to the occupational injuries that go unreported by the companies and factories.

It has been mentioned in complaints that many workers are exposed to injury caused by operating machinery. Moreover the domestic workers are subject to injury either as a result of using chemicals without using protective equipment not provided by the employer, or from falling while cleaning windows.

Many doctors and nurses said that there are some workers who are exposed to respiratory illnesses due to lack of good ventilation in the workplace and accommodation. Some of them suffer from diseases in the eye due to poor lighting.

From the complaints, it has been found that the costs of treating work injuries are mostly covered by the worker while the days of absence are deducted from their monthly salaries. We indicate in this context that some employers do not record work injuries in order to prevent the increase in social security transcription since it gradually increases from 2 to 3% if the evaluation of the establishment is lower than average. It happens if the establishment obtains an evaluation mark between 50% and 80%. It increases to 4% if the occupational safety evaluation of the institution is lower than 50%, conditioning to revise the stipulated increase on the work related injuries subscription fees at least once a year.

## **Continuous stay in Jordan after the expiry of the residency period**

In principle, staying in Jordan is conditional with exceptions which are not applicable to migrant workers. Remarkably, Residence and Foreigners' Affairs Law and Labor Law successively connect the period of stay and work duration for one year for migrant workers. Notably, most of the employment contracts of migrant workers, particularly domestic workers, are for two years whereas the contracts for workers in the QIZ are for three years. This means in practice the recruitment of workers is for two years while his stay lasts only for one year. This opens the door widely to transform the worker to an irregular migrant worker particularly if the employer neglects to renew the residence permit because laws and regulations enforced in Jordan require the employer renew both work and residence permits. It is not important that the worker remains in Jordan for reasons out of his control. Although most cases that have occurred during this study, the worker's overstay after the expiry of his residency was due to the employer's failure to renew residence and work permits. However, some of them indicate that there are migrant workers who wish to remain in Jordan and correct their status after the expiry of their residence and work permits. Some common causes which turn workers into irregular workers are the failure of the employer to renew their residence and/or work permit since the Residence and Foreigners' Affairs Law and Labor Law and the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers of 2009, respectively condition that the employer shall renew the residence and the work permit of the migrant worker. Most of the studied cases indicate that the employers do not renew the worker's residence or residence permit, particularly for domestic migrant workers and workers in the construction sector. It can be said that based on the studied cases that there is a phenomenon for domestic workers and workers in the QIZ indicating that employers do not renew residence permits which is one of the fundamental causes the worker to become irregular.

Article 10 of the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers in its first paragraph stipulates that “the recruitment or renewal of non-Jordanian work permit shall be in accordance with the needs of the labor market sectors taking into account the closed professions.” Residence and Foreigners’ Affairs Law makes the renewing of the residence permit a discretionary matter without taking into account any considerations of the nature of the contract, the purpose of the migrant worker’s recruitment or the duration. As a consequence of this discretionary power, the public and competent authorities may refuse to renew the residence or work permit after the expiry of the one year. Thus the worker continues working but becomes irregular. Despite the scarcity of the cases that fall under this reason, it is theoretically and practically conceivable that some similar cases actually occurred.

It is not easy to become a regular migrant worker in Jordan when entering illegally due to the strictness and severity of the conditions imposed on the entry into Jordanian territory and the high control systems and procedures adopted. In spite of the lack of any cases of illegal entry to Jordan with fake documents, this hypothesis remains valid. Although rare, it is conceivable that some of the migrant workers have entered Jordan by deception or fraud with the use of forged documents. The competent Jordanian authorities in some cases cannot verify the authenticity of the presented documents, particularly in cases involving human trafficking.

Other causes for having irregular migrant workers include being born from an irregular migrant father. This reason may not be realistic in Jordan, it still constitutes an important cause for having irregular migrant workers in western countries. Yet in Jordan it cannot be, due to the difficulty for the migrant worker to remain irregular for a long period which would allow his son to become an irregular migrant. Economic, social and living conditions of this category of workers make their stay for a long period, for their families and themselves, an impossibility. Besides, another cause that may make the worker

irregular is the withdrawal of the nationality of the father which affects the nationality of the wife, sons and daughters. Since the withdrawal of nationality has become commonplace in Jordan, it has led many families to be victims of irregular status.

The regulations and instructions make the employer responsible for the worker and make the worker actually and legally associated with his/her employer, since he renews his work and residence permits. Moreover, the migrant worker staying at work is conditioned with a fixed-time contract preventing him or her from moving to another job or from one employer to another, except under strict conditions, most importantly the consent of the employer. This system and contract both prevent social integration of migrant workers into Jordanian society. If we consider Article 12 of the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers of 2009 we find that even if it ensures redress for a certain limit, as it eased the transmission of migrant workers' restrictions from one employer to another by exclusion, domestic workers and workers in QIZ. This completely constrains the freedom of these two categories from moving from one employer to another, as it is not allowed for workers in these sectors to move from one employer to another without consent of the original employer. These restrictions deprive the worker from their freedom of choice to choose their work and expose the migrant worker to the risk of forced labor, exploitation or work in slavery-like conditions. The legal system addressing the movement of workers from one employer to another allows the actual movement of workers, particularly domestic and QIZ to actual movement from one employer to another, but this practice remains illegal, be it by escape or other means. Consequently it contributes to making the migrant workers irregular.

Some other reasons which contribute to the presence of irregular workers in Jordan are the closed professions system and its applications. The employer might be in need of a migrant worker to be recruited to one of the closed professions, so the employer then recruits the worker into a profession not within the closed system.

The employer then uses the worker in a profession listed in the closed system. The worker himself may practice such behavior when seeking to enter the country. He/she knows that they will work in a profession different from the one he/she has officially been recruited for. In other words, the list of closed professions may be cause of a number of irregular workers. Some examples include a considerable number of migrant workers entering the Kingdom to work in the agricultural sector, an open profession, but upon entry work in other professions with the knowledge of the employer having recruited them.

Among the employed practices in this context in liberation where the migrant worker pays the employer who recruited him/her 600 to 1,000 JOD to be free to practice any other work or to move to any other employer in actual fact, but still illegally. Under the shadow of Jordanian Law, irregular migrant workers are considered criminals especially under Residence and Foreigners' Affairs Law. Article 31 of the mentioned law treats these workers, if they entered Jordan without a visa, from places other than border entries, ports, and airports, as criminals. It allows the arrest of the worker without a warrant and referring him to the governor to decide his or her deportation or granting permission to stay or refer him to the magistrate court. If convicted in the court of magistrate, the worker shall be punished with imprisonment for one to six months or by fine, or both. It should be noted that there is a common practice in Jordan which is when the migrant worker leaves the workplace, the employer circulates the news of his escape to the police stations. If the employer refuses to receive the worker following his capture, the worker will be administratively detained without trial for an indefinite period. The period of his detention may extend to a period over 24 hours which is stipulated by law, whether on the basis of his/her administrative arrest or the transfer to another police station to serve a new period. The detained migrant worker may resort in some cases to a Jordanian person to bail them out in order to be released. The detained migrant worker will pay the Jordanian a sum of money to be collected from the station. In most cases, following

his release, the worker remains vulnerable to exploitation by the person who arranged his release and is at his mercy.

In addition to the above, Articles 34 and 36 of the same law are clear in this field. Article 34 stipulates one who does not obtain residency or overstays without applying for renewal during one month expiration is fined. Article 36 includes a general provision promoting that the irregular migrant worker to be considered criminal, particularly as it provides penalty of imprisonment from one week to a month or both penalties against anyone who violates the provisions of the Residence and Foreigners' Affairs Law. In principle, the Jordanian legal system treats irregular migrant workers as criminals who violated the penal articles and provisions. The practice emphasizes this perception as most cases included in this study resulted in at least fines, and many of whom were subject to deportation. It should be noted that a number of countries do not view this category of workers as criminals. In Austria for instance, the law considers irregular migrant workers as perpetrators of administrative offences, not penal offences. Some of the issues that should be emphasized, irregular migrant workers in Jordan are exposed to being deported without investigating the standards and regulations stipulated under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This article prohibits the state party from deporting anyone within its territory to any other country where that person may be exposed to the risk of torture or ill treatment. This is a commitment which obligates the executive and judicial authorities to investigate the reason behind the absence of reasonable grounds leading to such belief before deporting anyone. It appears from this practice that this commitment is not taken into account in all cases of deportation and repatriation. It is enough in this context to note that the European Court of Human Rights, in many of its provisions, refers that the person who is deported if he suffers from a disease with a treatment not available in the destination country similar to the medical care in the country where he is currently hosted, this

deportation case is a cruel, inhuman treatment which prohibits his deportation.

Since irregular migrant workers cannot open bank accounts, they may resort to using fake documents to open an account, inevitably exposing them to criminal prosecution. The workers may transfer their money through another person in exchange for a proportion of the amount transferred. Notably some of the irregular female migrant workers registered their newborn children under the names of women who enjoy regular status in Jordan. This practice is punished by Jordanian law as it has been committed as a result of the irregular status in which they find themselves. In some cases, the migrant worker who has the baby registered under her name might have to leave the Kingdom, leaving the biological mother without the child. Some other rare cases included similar practices. The intention behind referring to these cases is to highlight that dealing with irregular workers as criminals may lead to them committing prohibited and banned actions, leading to his/her prosecution and accountability to fall under the Penal Code. Some of the cases included in the study indicate that the irregular migrant workers most of the times are in a position making them easily exploited and trafficked be it in prostitution or in forced labor. In prostitution, particularly the irregular migrant workers, may be prosecuted as criminals although they are victims of human trafficking.

## Correcting the status of irregular migrant workers

The process of status correction is conducted for 'open' professions permissible to migrant workers but does not include 'closed' professions. The correction of status covers migrant workers who entered the country in accordance with their employment contracts which have expired and who did not complete the procedures of obtaining their work permits and the workers wishing to change their place of employment within the same sector, or move to another sector where the termination of the work permit period is required, or is an agreement between both parties. It includes each migrant worker inside the country without the purpose of working and migrant workers who spend their dues from the social security department and did not leave the country and who wish to return and work again. This is in addition to runaway workers who were previously reported to the police for having expired work permits.

With regards to fees, they are collected from all workers covered by the correction according to the fee system which is currently and retrospectively from another work permit expiration date issued to the worker.

The number of migrant worker who obtained permits in 2013, 2014 and 2015 is nearly 925,623 including 718,880 males and 206,743 females. The Ministry of Labor implemented during those years more than one correction status period including 218,783 migrant workers of different nationalities with a financial cost of 62 million JOD.

Although the Jordanian authorities allowed periods of status correction, it usually announces these periods suddenly and without enough notice for the workers to find employment and arrange their affairs. Additionally the confiscation of passports impedes the correction of their status.



**Table: Number of migrant workers who obtained work permits and corrected their status from 2013 to 2015**

Number of people who corrected their status	Number of females	Number of males	Number of workers who obtained work permits	Year
52,556	59,993	226,204	286,197	2013
84,683	70,286	254,124	324,410	2014
81,544	76,464	238,552	315,016	2015

In this context, the migrant workers are subjected to a series of violations. This is emphasized by a study issued by Tamkeen including interviews with 87 irregular workers and addresses the most prominent “violations” from which they have suffered as a result of their illegal status, confirmed by 28.5% of them while 26.7% mentioned they “suffer from a delay in receiving wages for long working hours.”

24.43% mentioned that they “do not receive overtime allowance” while 12.22% said they “don’t receive official holidays,” and 3.62% “suffer from a disagreement with workers,” 2.71% stated that “the employer confiscates passports,” 1.81% “suffer from ill treatment” and 0.45% said “they are forced to work.” This also applies to domestic workers since most of them do not benefit from status correction periods and the requirements of the Ministry of Labor demand the approval of the employer to transition the migrant worker to another employer. Although the decision of status correction usually includes all migrant workers, including domestic workers, there are difficulties that the workers face, particularly the confiscation of their passports by the employer. “Circulation of escape” is a barrier to their correction of status. With regards to domestic workers, the condition of the employer’s consent to transfer the worker to another employer is considered a barrier to their status correction. It is noted that in the cases of death of the

employer, it is important to have the consent of one of the heirs for the transfer to go through.

In the same context, the Ministry of Labor cancelled 12,129 decisions of deportation against irregular migrant workers in 2013, 2014 and 2015 out of 14,807 decisions because they paid fines of 2000 JOD for violating the law.

Although in case of decision cancellation, the migrant worker has the right to receive the money he has paid back, there are many cases in which the decision of repatriation was revoked and the money was not returned. This is a clear violation of Labor Law.

Through one of the inspection campaigns conducted by the Ministry of Labor in cooperation with the Department of Public Security, an Egyptian worker was seized while he was at a restaurant to purchase food, even though he was carrying a valid work permit. After convicting the worker, a decision of deportation was issued against him. In order to cancel this decision, he paid 2000 JOD, a cost borne by his employment company. After the cancellation of the deportation, the Ministry of Labor decided to withdraw the decision issued against the worker who was arrested during that period. Although the Ministry of Labor withdrew the decision, the worker could not repay the fine to the company and had to work to repay the cost – considering that the worker’s salary is no more than 150 JOD.

## Irregular migrant workers

Undoubtedly, irregular migrant work has common features and causes with other countries. The phenomenon has common causes, manifestations and dimensions in all countries. It is also characterized by its specificity and a variety of features specified by the different cultural, social, economic and legal countries. Therefore understanding and analyzing the phenomenon of irregular migrant workers in Jordan was not conducted in the light of the common characterized shared among states and on an international level. In order to reach this purpose, there is a need to study the mentioned causes and context in order to understand the nature and features of irregular migrant work in Jordan. In principle, it can be said that the majority of irregular migrant workers in Jordan come from other Arab countries (Egypt and Syria). The number of non-Arab irregular migrant workers is less due to the strict and harsh conditions of granting entrance visas and to the sponsorship system enforced in Jordan.

The migrant workers of Egyptian nationality constitute 70% of migrant workers in Jordan. In any case, there are various causes behind the existence of irregular migrant workers, most of which are legal. Regulations and instructions governing migrant workers in Jordan (recruitment, residency) can be summarized as follows;

- **Nationalist perception of the migrant worker**

The important and fundamental reasons behind the presence irregular migrant workers in Jordan is a result of the ideological thinking regarding foreign labor from Arab countries, particularly from Syria and Egypt. Most citizens of Arab countries do not require a visa to enter Jordan which means that labor migration from those countries is not constrained in principle. Syrians and Egyptians for instance did not need a visa to enter Jordan. Until 1984, they were able to be residents without residency permits. Following the imposition of this requirement, they became irregular.

- **Continued residency in Jordan after the expiry of the residency period**

In principle, staying in Jordan is conditional with exceptions which are not applicable to migrant workers. Remarkably, Residence and Foreigners' Affairs Law and Labor Law successively connect the period of stay and work duration for one year for migrant workers. Notably, most of the employment contracts of migrant workers, particularly domestic workers, are for two years whereas the contracts for workers in the QIZ are for three years. This means in practice the recruitment of workers is for two years while his stay lasts only for one year. This opens the door widely to transform the worker to an irregular migrant worker particularly if the employer neglects to renew the residence permit because laws and regulations enforced in Jordan require the employer renew both work and residence permits. It is not important that the worker remains in Jordan for reasons out of his control. Although most cases that have occurred during this study, the worker's overstay after the expiry of his residency was due to the employer's failure to renew residence and work permits. However, some of them indicate that there are migrant workers who wish to remain in Jordan and correct their status after the expiry of their residence and work permits. Some common causes which turn workers into irregular workers are the failure of the employer to renew their residence and/or work permit since the Residence and Foreigners' Affairs Law and Labor Law and the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers of 2009, respectively condition that the employer shall renew the residence and the work permit of the migrant worker. Most of the studied cases indicate that the employers do not renew the worker's residence or residence permit, particularly for domestic migrant workers and workers in the construction sector. It can be said that based on the studied cases that there is a phenomenon for domestic workers and workers in the QIZ indicating that employers do not renew residence permits which is one of the fundamental causes the worker to become irregular.

Article 10 of the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers in its first paragraph stipulates that “the recruitment or renewal of non-Jordanian work permit shall be in accordance with the needs of the labor market sectors taking into account the closed professions.” Residence and Foreigners’ Affairs Law makes the renewing of the residence permit a discretionary matter without taking into account any considerations of the nature of the contract, the purpose of the migrant worker’s recruitment or the duration. As a consequence of this discretionary power, the public and competent authorities may refuse to renew the residence or work permit after the expiry of the one year. Thus the worker continues working but becomes irregular. Despite the scarcity of the cases that fall under this reason, it is theoretically and practically conceivable that some similar cases actually occurred.

It is not easy to become a regular migrant worker in Jordan when entering illegally due to the strictness and severity of the conditions imposed on the entry into Jordanian territory and the high control systems and procedures adopted. In spite of the lack of any cases of illegal entry to Jordan with fake documents, this hypothesis remains valid. Although rare, it is conceivable that some of the migrant workers have entered Jordan by deception or fraud with the use of forged documents. The competent Jordanian authorities in some cases cannot verify the authenticity of the presented documents, particularly in cases involving human trafficking.

Other causes for having irregular migrant workers include being born from an irregular migrant father. This reason may not be realistic in Jordan, it still constitutes an important cause for having irregular migrant workers in western countries. Yet in Jordan it cannot be, due to the difficulty for the migrant worker to remain irregular for a long period which would allow his son to become an irregular migrant. Economic, social and living conditions of this category of workers make their stay for a long period, for their families and themselves, an impossibility. Besides, another cause that may make the worker irregular is the withdrawal of the nationality of the father which

affects the nationality of the wife, sons and daughters. Since the withdrawal of nationality has become commonplace in Jordan, it has led many families to be victims of irregular status.

The regulations and instructions make the employer responsible for the worker and make the worker actually and legally associated with his/her employer, since he renews his work and residence permits. Moreover, the migrant worker staying at work is conditioned with a fixed-time contract preventing him or her from moving to another job or from one employer to another, except under strict conditions, most importantly the consent of the employer. This system and contract both prevent social integration of migrant workers into Jordanian society. If we consider Article 12 of the Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers of 2009 we find that even if it ensures redress for a certain limit, as it eased the transmission of migrant workers' restrictions from one employer to another by exclusion, domestic workers and workers in QIZ. This completely constrains the freedom of these two categories from moving from one employer to another, as it is not allowed for workers in these sectors to move from one employer to another without consent of the original employer. These restrictions deprive the worker from their freedom of choice to choose their work and expose the migrant worker to the risk of forced labor, exploitation or work in slavery-like conditions. The legal system addressing the movement of workers from one employer to another allows the actual movement of workers, particularly domestic and QIZ to actual movement from one employer to another, but this practice remains illegal, be it by escape or other means. Consequently it contributes to making the migrant workers irregular.

Some other reasons which contribute to the presence of irregular workers in Jordan are the closed professions system and its applications. The employer might be in need of a migrant worker to be recruited to one of the closed professions, so the employer then recruits the worker into a profession not within the closed system. The employer then uses the worker in a profession listed in the

closed system. The worker himself may practice such behavior when seeking to enter the country. He/she knows that they will work in a profession different from the one he/she has officially been recruited for. In other words, the list of closed professions may be cause of a number of irregular workers. Some examples include a considerable number of migrant workers entering the Kingdom to work in the agricultural sector, an open profession, but upon entry work in other professions with the knowledge of the employer having recruited them.

Among the employed practices in this context in liberation where the migrant worker pays the employer who recruited him/her 600 to 1,000 JOD to be free to practice any other work or to move to any other employer in actual fact, but still illegally. Under the shadow of Jordanian Law, irregular migrant workers are considered criminals especially under Residence and Foreigners' Affairs Law. Article 31 of the mentioned law treats these workers, if they entered Jordan without a visa, from places other than border entries, ports, and airports, as criminals. It allows the arrest of the worker without a warrant and referring him to the governor to decide his or her deportation or granting permission to stay or refer him to the magistrate court. If convicted in the court of magistrate, the worker shall be punished with imprisonment for one to six months or by fine, or both. It should be noted that there is a common practice in Jordan which is when the migrant worker leaves the workplace, the employer circulates the news of his escape to the police stations. If the employer refuses to receive the worker following his capture, the worker will be administratively detained without trial for an indefinite period. The period of his detention may extend to a period over 24 hours which is stipulated by law, whether on the basis of his/her administrative arrest or the transfer to another police station to serve a new period. The detained migrant worker may resort in some cases to a Jordanian person to bail them out in order to be released. The detained migrant worker will pay the Jordanian a sum of money to be collected from the station. In most cases, following

his release, the worker remains vulnerable to exploitation by the person who arranged his release and is at his mercy.

In addition to the above, Articles 34 and 36 of the same law are clear in this field. Article 34 stipulates one who does not obtain residency or overstays without applying for renewal during one month expiration is fined. Article 36 includes a general provision promoting that the irregular migrant worker to be considered criminal, particularly as it provides penalty of imprisonment from one week to a month or both penalties against anyone who violates the provisions of the Residence and Foreigners' Affairs Law. In principle, the Jordanian legal system treats irregular migrant workers as criminals who violated the penal articles and provisions. The practice emphasizes this perception as most cases included in this study resulted in at least fines, and many of whom were subject to deportation. It should be noted that a number of countries do not view this category of workers as criminals. In Austria for instance, the law considers irregular migrant workers as perpetrators of administrative offences, not penal offences. Some of the issues that should be emphasized, irregular migrant workers in Jordan are exposed to being deported without investigating the standards and regulations stipulated under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This article prohibits the state party from deporting anyone within its territory to any other country where that person may be exposed to the risk of torture or ill treatment. This is a commitment which obligates the executive and judicial authorities to investigate the reason behind the absence of reasonable grounds leading to such belief before deporting anyone. It appears from this practice that this commitment is not taken into account in all cases of deportation and repatriation. It is enough in this context to note that the European Court of Human Rights, in many of its provisions, refers that the person who is deported if he suffers from a disease with a treatment not available in the destination country similar to the medical care in the country where he is currently hosted, this



deportation case is a cruel, inhuman treatment which prohibits his deportation.

Since irregular migrant workers cannot open bank accounts, they may resort to using fake documents to open an account, inevitably exposing them to criminal prosecution. The workers may transfer their money through another person in exchange for a proportion of the amount transferred. Notably some of the irregular female migrant workers registered their newborn children under the names of women who enjoy regular status in Jordan. This practice is punished by Jordanian law as it has been committed as a result of the irregular status in which they find themselves. In some cases, the migrant worker who has the baby registered under her name might have to leave the Kingdom, leaving the biological mother without the child. Some other rare cases included similar practices. The intention behind referring to these cases is to highlight that dealing with irregular workers as criminals may lead to them committing prohibited and banned actions, leading to his/her prosecution and accountability to fall under the Penal Code. Some of the cases included in the study indicate that the irregular migrant workers most of the times are in a position making them easily exploited and trafficked be it in prostitution or in forced labor. In prostitution, particularly the irregular migrant workers, may be prosecuted as criminals although they are victims of human trafficking.

## Administrative detention

What we mean by administrative detention is the prevention of liberty of a person and putting them in the detention center of the police station which is prepared for the arrest, detainment, or lodging of the person in prison. Detention in Jordan is practiced through mechanisms which are;

- The arrest which is provided under the provision of Article 100 of Jordanian Criminal Procedure Code which allows the judicial police including members of security forces to detain any person suspected of committing a crime and presenting him to the prosecutor within a period not exceeding 24 hours.
- “Judicial arrest” is the detention which is conducted based on the decision issued by the competent judicial authority as a result of the availability of the suspect of committing an offence that breaches the applicable enforced law provisions. This detention calculates the duration from the time where the person is convicted of the charge assigned to him.
- Administrative detention is depriving the liberty of a person without a judicial decision and without charge and without referring him to any accusation from a legal perspective, through a decision issued by the administrative authority which is the provincial governor and which is justified as a procedure employed by the administrative authority to ensure security and public tranquility in the country. It is a decision that is issued for an indefinite period of time. It is based on Crime Prevention Law which is still enforced in Jordan despite many human rights criticism from for being unconstitutional and violating the Universal Declaration of Human Rights and the International Covenant on Political and Civil Rights. It gives the executive authority judicial power to detain people without an explicit and clear charge. It also

does not allow them to defend themselves in a trial which does not include a legal guarantee for a fair trial and does not respect the minimum international standards related to this matter.

In addition, administrative detention is considered a violation of the right of personal freedom. In light of the continued use by the governor's implementation of the Crime Prevention Act, without being committed to the stipulated legal procedures which is guaranteed by Jordan's Criminal Procedure Code when making a decision of detention against anyone.

The number of administrative detainees under the decision of the administrative governors is around 19,860 in 2015, compared to 20,216 detainees in 2014, 12,766 in 2013, 12,410 in 2012 and 11,345 in 2011. The percentage of non-Jordanian detainees is 4% in the reform and rehabilitation centers or in the police station. In terms of the cost of reform and rehabilitation of detainees, it is approximately 92,700,000 JOD per year, at a rate of 750 JOD per month, per detainee. In case of alternative punishments, the cost drops by 25% to 69,600,000 JOD per year. According to the cost mentioned, only people interviewed by Tamkeen, until the time of interview, had cost around 647,314 JOD. In addition, accumulated overstay fines continue to be calculated during the detention.

The Egyptian migrant worker Hamdino Najdi won a case he lodged against the Ministry of Interior and the Director of Reform and Rehabilitation Center of Jweidah, and the Governor of the capital Amman, after accusing them of adopting “arbitrary procedures” against him, highlighting that the abuse began while administratively detaining him, after three months he was deported and prevented from returning to the Kingdom.

In the details of the case in the Court of Magistrates of Amman, Haifa Kayali ruled the case and Tamkeen center represented Hamdino. The ruling includes committing the defendant body to pay 2000 JOD in damages to the plaintiff for financial, moral and psychological harm and to compensate for incurred loss of income.

Hamdino was arrested 20 September 2009 until 28 December of the same year by the inspectors of the Ministry of Labor due to the non-renewal of his work permit which was “dissolved by the employer as a result of this agreement”. The court ruling included that the responsibility of renewing the permit falls on the employer, not the worker, according to the provisions of the Labor Law. The ruling stated that detaining the worker for three months in the police station of north Amman contradicts the Code of Criminal Procedures which prevents the detention of an accused person for a period exceeding of 24 hours without presenting him to the judicial authorities.

In spite of the amendments which took place on judicial by-law of 2009 in Jordan, there are hundreds of migrant workers who are detained without justification for unlimited periods of time. Although the law allows the detention of people in the police station for a period of 24 hours, the reality reveals violations with periods exceeding the legal period allowed by law. However the reality proves the existence of breaching the provision related to the duration of 24 hours where the defendant is arrested for periods exceeding the specified period of time by circumventing the law by transferring the detainee every 24 hours to a new police station, or from the police station to the police directorate or vice-versa, or by resorting to a warrant for arrest issued by the administrative governor based on the Crime Prevention Act of 1954 and keeps them in the police station detention.

The Crime Prevention Act contradicts the principles of the constitution and the Universal Declaration of Human Rights and the rules of fair trials, and the Arab Charter on Human Rights, as well as the conventions and treaties ratified by Jordan. Since the law of 1954 makes human beings in Jordan potential victims of administrative detention for any reason without charge and for unspecified periods of time. The law grants the authorities absolute power to detain on the basis of (the administrative governor's perception) or on the base of (suspicious conditions). The most dangerous thing in the law is that "the administrative governor shall not be committed to prove that the accused has actually committed certain acts and did not provide specific limitations adhered to by the governor in the formation of assumptions and convictions on which he bases his suspicions." As well as it states "the statutory judiciary has no authority or regulatory power over decisions issued by administrative authorities; it is the prerogative of the supreme court of justice." The law also contradicts the principles of launching freedoms and political, social and civil rights. It is also contrary to the laws of democracy, civil society and the rule of law since the administrative governors are given absolute power to arrest and detain, forced stay and deportation without any judiciary rules. Its danger lies in the embedding of the combination of

the judicial and executive authorities in the hands of the administrative governor. The law impacts migrants' detention since detaining migrants is considered illegal as it lacks any legal justification that grant the security officials the right to do so. This practice involves an arbitrary and unlawful breach of the individual rights to freedom.

With regards to irregular migrants who breach the Residence and Foreigners' Affairs Law, he is arrested and detained for a long period of time due to his inability to cover the cost his overstay fines. The deportation decision may be issued against the worker and he may remain in detention until the implementation of a solution. This period may extend for several months and exceed one year due to the difficulty to provide them with air tickets.

As illustrated above, the most prominent downsides of the administrative governor's procedures in Jordan is that he holds both the executive and judiciary powers as he can send any person to prison without being brought before the court and without determining the duration of the detention. All that is required of the administrative governor to send someone to prison is his signature bearing the name of the worker and the decision of administrative detention, making the arrest period last several days to ten years and above.

Internationally, the international law authorized the recourse to administrative detention for security reasons and on an exceptional and individual basis. It warns against the negative and collective use of it because it may reach collective punishment which is to the detriment of the interest of citizens considering that administrative detention ends immediately after issuing a decision, thus setting restrictions on the implementation and continuation of detaining arrested people.

International law defines judicial procedures and guarantees in case of resorting to administrative detention, most prominently:

- The immediate knowledge of the administratively detained of the reasons of his arrest with full details in a language that he/she understands.
- The detainee's access to an independent and impartial mechanism to appeal his detention.
- The administrative detainee's access to legal assistance and being granted the right to periodical review of the legality of his detention.
- The detainee's right to contact members of his/her family.
- The detainee's right to obtain medical care.

It is clear from considering the complaints received by Tamkeen that the administrative detention system leaves the migrant workers susceptible to a number of human rights violations and abuses by their employers and the authorities.

There are many reasons that lead to the migrants' detention since many are detained due to a "runaway" circulation - this is a report submitted to the police station when the worker leaves the employer. This report might be accompanied with an accusation of theft. In spite of this, charges are not validated before detention. As soon as the accusation is launched, the person is detained by the authorities. After that, the procedure of deportation starts. It may last for days and months - he or she might not be released while waiting for the decision of deportation or repatriation. Therefore, individuals may spend long amounts of time in Jordanian prisons awaiting the completion of their procedures without communication with friends and family.

Furthermore no migrant worker with accumulated fines for overstayed periods will be deported until the payment is completed. As mentioned above, in spite of the responsibility of the renewal of work permits falling on the employer, in many instances the migrant

worker will be administratively detained as a result of the employer's neglect to do so, and due to the worker's inability to pay his overstay fines. Many migrant workers end up staying indefinitely.

Based on the Crime Prevention Act, the detainees have rights and protections much less than the rights granted to the detainees according to the Jordanian Criminal Procedure Law. This law, in addition to other matters commits the authorities to present the suspect to the prosecutor within 24 hours of the time of arrest to be charged. International law justifies detention, for "a period of time" in the case of illegal entry to the state. However after a time, continued detention is considered arbitrary and thus violates international standards.

In addition to the previously mentioned cases, some individuals cannot be deported to their home countries. The reasons may be either the refusal of the receiving country to accept them or due to lack of diplomatic relations between Jordan and the country that sent them. Therefore these individuals are often indefinitely detained which is a considered a clear violation of their human rights. With regards to cases that do not constitute a severe risk – such as people married to female Jordanian citizens – administrative detention shall not be used until the issuance of the deportation decision, or for cases which cannot be deported.

Crime Prevention Law grants the authorities full discretion to determine the bail or the catch component of the bond. Authorities determine in many cases a bail outweighing the financial capacity of the migrant. In addition this law gives the authorities the right to refuse the third party, the bondsman, to carry the responsibility of the defendant, making it difficult for the migrant to find bondsmen since most of them do not have many friends, family or employers who can pay the bond for them. Without the existence of a third party to carry the responsibility to guarantee the worker's presence in court in the future, releasing the detainees is not possible.



Moreover the absence of an effective mechanism for judicial review renders migrants unable to appeal the decisions of deportation in most cases. Even when considering the Crime Prevention Law, it does not refer to any review, administrative or judicial, in spite of the start of the judicial reviews for detainees. The detainees have the right to submit a petition to the High Court of Justice, however most of the time the costs exceed their financial capacity. Human Rights Watch noticed the presence of three main obstacles to appealing the effectiveness of the court's decision. The first obstacle is: the lack of free legal aid as the lawyer's fees are too expensive for the defendants to be covered. The second is related to the issue of court fees for judicial review ranging between 3 and 300 JOD. Finally, there is no protocol indicating the right to appeal court decisions by the detainees or stipulating their right under international and Jordanian law. Therefore many detainees do not recognize their ability to appeal their detention.

Tamkeen each year meets cases of workers whose rights were violated either by their employer or the authorities. They were subjected to arbitrary detention. For instance in 2011, the Jordanian authorities detained Sri Lankan Tushany due to her employer's circulation of a report of escape against her and because he refused the withdraw of the report, she was sent to Jweidah prison until the issuance of the decision for her deportation. Despite the issuance of the deportation decision for Tushany in September 2011, the worker remained under arrest until March 2012 when she finally left the country. During her detention, Tushany was pregnant and delivered her daughter in prison. Tushany's story is a clear example of how administrative detention is used in Jordan and how it exceeds the permissible limits based on international law. It also violates international law when detaining migrants for merely violating immigration laws.

International law clearly defines the criteria upon which prolonged detention is justified in such cases. To counter the use of administrative detention, Jordan should undertake a multi-faceted

approach. First, it needs to reevaluate its legislation, mainly Jordanian Labour Law and the Crime Prevention Act, and address any gaps through which the violations of migrant workers' rights might occur. Secondly, Jordan should amend its laws in terms of obtaining work permits for migrant workers and improve the system in such a way that does not connect the worker with the employer. Finally, Jordan needs to educate and train the authorities regarding implementing migration laws and ensure these authorities have the correct knowledge of international and local human rights standards so that they do not resort to administrative detention except only after the exhaustion of all other alternatives.

## Siraj Davis Issue

Remark: the story as reported to Tamkeen Fields for Aid by email and as presented in

<http://www.globalresearch.ca/the-grim-conditions-of-jordans-immigration-detention-camps-blattant-human-rights-violations/5520571>

The personal experience of Siraj Davis (an American citizen) and his wife Amira (an Iraqi refugee) highlights the negative status of Jordanian detention centers. The couple were unexpectedly arrested and quickly deported from Jordan upon orders of the Jordanian Mukhabarat (intelligence) due to Siraj's passion in highlighting the Syrian refugees' tribulations and his reporting of labor and human rights violations and corruption to the National Centre of Human Rights, Tamkeen Fields for Aid, and the Anti-Corruption Commission of Jordan.

The complaint submitted by Siraj was against one of the International Schools and one of the academies in Jordan. Since Siraj came to Tamkeen in 2016 to obtain legal aid for a problem he faced with two of his colleagues, the problem was **summarized** as follows: Siraj was working at one of the academies as a teacher. He did not obtain his employment contract or obtain his salary. His work permit, his residency permit were not renewed by the academy. When he complained, the academy rejected his request when he claimed his rights. Based on this he obtained the required consultation for his case. After a week of coming to the center, he called us to inform us of another problem which could be connected to the first problem. He received an anonymous phone call who told him he is under investigation by the Jordanian intelligence for reasons of national security. And then he was contacted by another person working as an intelligence lawyer, asking him to pay a sum of money to the intelligence in order to solve the problem internally. We lost track of Siraj, and after a short period we received an anonymous

phone call informing us of Siraj's arrest and that he was in Tla Al Ali police station. When we tried to reach him, he was transferred to another unknown location. On April 19, 2016, we received an email from Siraj that he and his wife Amira were currently in Dohuk, in Kurdistan, Iraq. Since he and his Iraqi wife were deported, Siraj informed us of the circumstances and situation they faced while in detention. Amira, Siraj's wife, confirmed she bore witness to unmerciful beatings of a female prisoner who was detained due to non-payment of fines by two guards and an officer. The prisoner talked in a respectful way, reflecting an education to remind those people of her rights.

Then she became subject to further insults and yelling by one of the officials, for asking to light a cigarette. She was dragged, kicked, slapped and punched, etc. while she was handcuffed for 20 minutes continuous. She was also forced to put her palms on the wall and stare at the wall for an hour after removing her handcuffs. And then one of the officers publicly, threatened to write a report stating that she insulted the King if she revealed what had happened to her. Then they continued the beating until she collapsed. Amira mentioned that some prisoners who witnessed the crime were crying and screaming the name of God hysterically. Some tried to persuade the guards to stop. However they were asked to move away from the cell door and remain silent.

Furthermore, Amira mentioned that some Filipino workers lost their property. "The prisoners had suspicions that one of the guards had robbed them." While one insisted to retain her watch, she was threatened with physical punishment if she did not return to her obedient behavior. Therefore, the women gave up and remained silent. There was also an Indonesian woman who was teased and mocked by the guard due to her strange language. She was laughing while pronouncing incomprehensible sounds, imitating for other guards what

sounded like the Indonesian language. According to the prisoners in the female facility, an Indonesian woman was subject to beatings by the guards because she could not understand the orders received in Arabic from them. An Ethiopian worker came to her rescue and became involved in a physical struggle with two guards. Three other guards came to restrain her. Then all five guards and the officer beat her and tied her to the bed.

Siraj also witnessed an incident forcing an Egyptian worker to put a plastic garbage bag on his right arm and insert his hand into the toilet to make it work. It is important to indicate here that the transportation fee to Egypt by land is as cheap as 50 JOD, the Egyptians used to move quickly from one migrant center to another, much faster than Syrian prisoners and people from southeast Asia.

In the words of Siraj “unfortunately, it has become the norm for migrant workers and others to be deported from Jordan, violating international law, before the start of their trials or investigating the grievances of the workers against their employers.” This is what happened to Siraj and his wife, leading him to write a title **“The Grim Conditions of Jordan’s Immigration Detention Camps. Blatant Human Rights Violations.”** In his publication he documents the conditions of the Jordanian detention centers and the process of migrant workers’ deportation in addition to the violations of international human rights law.

## **Arbitrary detention of migrants**

Jordanian legislation (the amended Article 100 of the Criminal Procedure Code) provided that the arrest period of the defendant shall not exceed 24 hours in the police station. The defendant is referred after that to the Attorney General as a competent judicial authority responsible for conducting the investigation. Nevertheless, police stations still detain migrant workers for more than the stated period. Through interviews conducted with about 281 migrants and of those who were detained, they reported being detained in the police stations for a period ranging from one day to eleven months.

The phenomenon of migrant detention extends to cover domestic workers and depriving them from their liberty without any legal or illegal justification.

Police stations kept detaining any migrant worker that his/her employer reported the worker's leaving of work or stopped attending to the workplace. This practice constitutes arbitrary illegal deprivation of liberty. It ends up with the migrant's repatriation or deportation without investigating the availability of conditions stipulated in Article 3 of the United Nation Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As a result, it may make them suffer from pain and damages including the threat stipulated in Article 16 of the same convention.

The mentioned practice, which has become a daily practice by the police stations, has no basis or justification in Jordanian law. The worker's quitting of their job, before the expiry of the agreed upon period, does not constitute an offence requiring the worker's detention in any case. It is merely a labor conflict between the migrant worker and the Jordanian employer, similar to the Jordanian worker leaving his/her job.

The police stations may act as judicial authorities, although it is not within their mandates, particularly in the cases of domestic workers.

The domestic workers are forced sometimes to return to their employer, otherwise she will be detained in the police stations regardless of her rights. This practice prevents the worker from accessing justice.

Additionally, public authorities in Jordan conduct administrative detention on migrant workers arbitrarily and in a way that violates international law and conventions adhered to by Jordan and published in the official gazette years ago.

Tamkeen Fields for Aid observed that there is a certain pattern followed by the public authorities, particularly by administrative governors in coordination with the Public Security Department. They administratively detain migrant workers in a manner that breaches law and conventions. In particular, article 16 of the United Nations Convention against torture, as it is detention causes serious material and moral damages to this category of workers.

It was also notable that there is a kind of duplication in terms of legal proceedings practiced against migrant workers, especially domestic workers. Occasionally, the worker, due to some disagreements with the employer, is exposed to complaints, some of which might be false while others come as a result of minor crimes such as the accusation of stealing money or other contents from the employer's house. When lodged in the judiciary and the lawsuit is registered, the public prosecutor or the judiciary does not have a form of conviction that the claim is true. Therefore, it records the case and leaves the work without arrest. On the other hand, the police stations refer to the administrative governor to detain the worker in the reform center until taking a final decision on his/her case. The matter leads to duplication in proceedings and deprives the worker from his/her liberty for long periods of time without their rights.

As observed, the effects of such procedures are the ongoing administrative detention of the worker without informing the court of his/her whereabouts. Consequently, proceeding in the case and

the ruling on the worker are in absentia due to his/her inability to be present in the court house. The thing that deprives the worker from his/her right to defense and prove his/her innocence of the accusation levied against him/her. In addition, it deprives the worker from deducting the period of administrative detention for the sentenced period issued against him/her by the judiciary since the period of detention is not under the case for which he/she was sued.

The migrants' detention, which does not stand on legal or legitimate reason, is a phenomenon which requires clear interference from the concerned authorities to stop it seeking redressing its victims and compensating them for the damage they incurred. The nationality of the worker cannot be the only reason for his/her illegal detention. It is also not logical to detain the worker based on a contractual background, as occurs with the Egyptian workers. In case the worker is convicted for working in profession he/she is not allowed to occupy, or for working for an employer he/she is not allowed to work for, or working without obtaining a work permit, he/she is detained until the issuance of a deportation decision against him/her. After the issuance of the deportation decision, the worker is detained until the implementation of the law, although Article 37 of the Residence and Foreigners' Affairs Law provides "The Minister may, on a proposal of the Director, expel a foreigner; he may also order the temporary suspension of expulsion procedures in respect of a foreigner whose expulsion has been decided. A foreigner who has been expelled shall be authorized to return to the territory of the Kingdom only by special permission of the Minister". Although the concept of this article indicates that the temporary detention shall take place after the deportation decision, the official practices are different. The official departments used to detain migrants for long periods of time before and after the issuance of the deportation decisions.

Other workers with other nationalities restricted by the residence law, the ones who are violating the residence law, suffer from the same issue. The irregular migrant worker is administratively detained. The detention period may be extended due to the workers lack of



ability to pay their overstay fine. A decision of deportation against the migrant worker might be issued, and he/she is detained until the implementation of deportation.

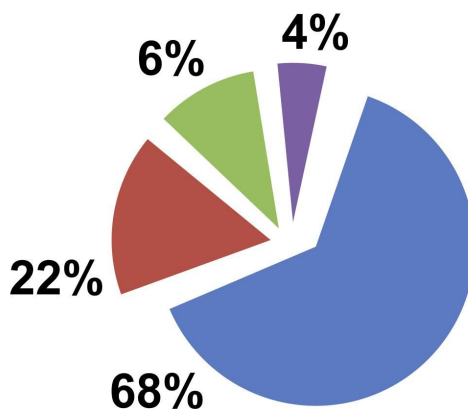
**The follows are the numbers of administratively detained migrants during 2013-2014**

Number of detained migrants during 2014		Number of detained migrants during 2013	
744	<b>Women</b>	612	<b>Women</b>
1797	<b>Men</b>	1229	<b>Men</b>
2541	<b>Total</b>	1841	<b>Total</b>

The migrant worker may stay in detention for months, sometimes exceeding a year, since it may be difficult to provide those workers with travel tickets. When interviewing 281 migrant workers, it was found that their administrative detention periods ranged between 21 days and two years.

The table below presents the number of migrant administrative detainees who were interviewed by Tamkeen Fields for Aid and their period of detention.

Percentage	Number of Detainees	Detention period
55%	145	21 days- 4 months
18%	51	5-11 months
5%	13	One-two years
3%	9	Unknown
100%	281	Total



- Unknown
- One-two years
- 5-11 months
- 21 days- 4 months

The interviews of 281 detainees of migrant workers reported their lack of knowledge of the reasons of their arrest or of their rights to recruit a lawyer. It is also important to mention the unavailability of translation when interviewing the detainees. Regarding ways of treating migrants, there was no report of any inhuman or torture practiced against migrants inside the places of detention. However, a number of women migrant workers reported being forced to clean the police stations during their detention.

In this context, we highlight an important issue faced by prosecuted detained people, which is the delay in delivering migrant workers to court. It leads to delay in their arrival to the suitcase session and affect negatively the progress of their cases. In one of cases addressed by Tamkeen, there was delay in transferring one of the domestic workers from Jweida prison to Irbid Court more than once. Her case was adjourned accordingly.

## **Alternatives to Detention**

Administrative detention shall meet a number of criteria under the international law in order to be considered legal. As after the depletion of other alternatives which are “less harmful means to achieve the same purpose”, is considered available and practice alternative means to impose the immigration police as an integral part of the legitimacy of the administrative detention. The UNHCR stated “the existence monitoring mechanisms that can be adopted as a practical alternative to detention (...) that shall be implemented”, first “unless there is evidence indicates that this alternative will not be effective in case of being implemented in individual case separately”. The less harmful means to implement immigration law include Reporting Requirements, use of Bails, Bonds, and Bondsmen, in addition to Residence Constraints. These standards are applicable to regular and irregular migrants.

It is problematic to assess the extent of efficiency of the alternatives programs to detention, due to the scarcity of the practices. Many

countries started with pilot programs, on a lower scale. However, these programs came up with promising results. Currently, these programs are run for special categories of migrant workers, such as asylum seekers or children. Consequently, in order to address possible alternatives to detention which can be adopted by Jordan, there is a necessity to adopt alternative programs and specific ones to administrative detention to be currently in use, in addition to the expansion in these programs to include irregular workers.

Same as other forms of enforcement, although each program includes difficulties, it represents the best way for a country like Jordan to move forward. These programs will improve with time and more funds.

## **1- Reporting Requirements**

The use of reporting requirements is one of the alternatives to administrative detention. The specific guidelines of the reporting requirements differ from country to another. They are frequently associated with the assistance provided by the state to the migrants. The migrants are requested in all cases to provide regular reports to the authorities. Nevertheless, the frequency and the means of reporting vary from one country to another. The authorities might be from the police or the immigration officials, and in some cases social workers from the non-governmental organizations. In some scenarios, individuals report by submitting reports to the authorities on a personal level, while in other scenarios individuals report with a phone call.

Reporting requirements impose burden on the irregular migrants in case of being organized in a way does not suit them and their conditions. For instance, if the individual cannot repatriate to his/her country of origin, the usual reporting requirements are requested from them for an indefinite period. Thus, it intrudes on the freedom of movement of this person. Generally speaking, reporting requirements still represent, if used appropriately, a less harmful

alternative in comparison with the administrative detention. This is in particular in the case of being specifically used on individual base cases. It means that it should strike balance between reporting requirements and the freedom of movement of the individual and his/her privacy, in addition to considering “the marital status, the housing situation and the financial means” of the individual.

In spite of the success achieved by the reporting requirements in terms of implementing immigration- related legislation and protecting the migrants’ human rights, it is still deficient. It has been recorded in states such as Sweden that adopting supervision and report preparation requirements within their national legislation, rather than detention. However, detention is still practiced in reality. It also offers all other alternatives. That might be due to the difficulty in estimating the risks of such practice and the lack of information which indicates the rate of the reporting programs success. Yet, the availability of reporting requirements is a less harmful alternative than detention for the authorities, particularly when used appropriately and linked to the assistance services provided by the state, or the related documents’ renewal. Additionally, it can be extremely helpful in the long run.

## **2. Bails, Bonds and Bondsmen**

International law also stipulates using bonds, bails and guarantees as alternatives to depriving the individual from his/her liberty. Such financial means are considered guarantees that ensure the appearance of the individuals at the hearing sessions and their cooperation with authorities. Bails are considered deposits that assist the authorities to ensure the presence of the individuals in the future. It can be retrieved after his/her full compliance to the agreed program. The bonds ensure the full compliance with the authorities through a written agreement, and sometimes it is accompanied by having bondsmen. The bail usually occurs within the presence of a third party, who is usually the individual’s friend or relative. This third

party accepts to testify for the compliance of the individual and agrees to paying part or the full amount of agreed on financial bail.

As mentioned above, the use of bonds and bondsmen raises a problem in its implementation. In spite of the existence of alternatives to detention in the legislation of other countries like Jordan, its use is not unified. Frequently, it is not applicable to irregular migrant workers. It was noted by the special Rapporteur on the human rights of migrant workers in a report in 2002 “Unaffordable amounts of money are often determined for workers”.

From another perspective, some other countries started working on programs to extend the use of bonds, bails, and bondsmen for asylum seekers. It can be carried out by providing alternative means for the purpose of oversight and from the involvement of governmental departments and non-governmental organizations as a third party to carry out the responsibility of individuals.

Canada has established a limited program called Toronto Bail as an alternative to detention. It is a state-funded initiative that aims at imposing less harmful restrictions on migrants while attaining the same purposes of detention. The program allows the third party to define the conditions of release. It works, as well, on increasing the number of the migrants who are eligible to be released through bails or bondsmen. Seeking this result, the program plays the role of the guarantor, as the migrant might not have any of his/her family members available to bail him/her out. Individuals can choose the program after an initial screening process which includes identity establishments for the detainee and consideration to his/her qualifications based on a number of standards. The Toronto Bail Program may require the release of one of the detainees without paying financial bail. The migrant shall accept to provide regular reports to the Toronto Bail Program as a condition to enroll in the program on the behalf of the individual.

In spite of the lack of data for the pre-mentioned Toronto Bail Program, it has not recorded “the percentage of missing people”, except for 10% of people having benefitted from them during the first decade of its establishment. The reason of the program’s success returns to the firm selection and screening, in addition to the high level of monitoring. The estimations indicate that the Bail Program accept 15-20% of all eligible individuals. This program requires reporting every two weeks, unannounced home visits and consultation provision. In spite of the small scope of the program, it gives promising results which are possible to be extended as long as the selection process procedures are strictly implemented.

As stated above, using bails, bonds and bondsmen are allowed according to both Jordanian and American national legislation. However, they are usually identified within unrealistic levels, or replaced by the common practice of administrative detention.

The authorities may not desire to grant parole, or they may not know that these options are available for them. This situation created the mandatory and random characteristics of the administrative detention, which makes it arbitrary according to international law. It is incumbent on the state to educate and train the authorities on implementing the migrations related law in order to be able to use means commensurate with the law’s implementation. Using bails, bonds, and bondsmen is considered a less harmful alternative to administrative detention when used appropriately.

Jordan continues adopting programs similar to Toronto Bail, funded by the state, which permit the intervention of an independent third party on the behalf of the detained person. Moreover, it allows the governments officials and non-governmental organizations to act as bondsmen or supervisors on the migrants who are detained. Such as any bail program, the Toronto Bail Program does not target all the detained individuals. It only focuses on eligible individuals. It is possible to adopt a similar program in Jordan for eligible individuals

to prevent the prolonged detention of migrants due to delayed procedures or the inability to deport the individual.

### **3. “Semi Open” Centers and other Residence Restrictions**

Immigration centers and residence restrictions are another alternative to administrative detention. The specifications of residence restrictions are different from one country to another. Moreover, they are different from systems of reporting requirements and systems severely restricting movement. Generally speaking, these procedures might be less harmful. Thus, this procedure shall not be taken into account except after the depletion of other less harmful alternatives. According to international law, using the immigration centers and residence restrictions is the appropriate alternative for those detainees.

Germany administrates a series of welcoming centers that temporarily houses asylum seekers at the beginning of the asylum process. The role of such welcoming centers is complemented by having larger size “shelters” which accommodate asylum seekers for a longer time and allow them to move through the asylum process. The system allows the individuals to leave their area of residence only after obtaining a private permission from local authorities.

In the context of the Jordanian immigration policy, it is possible to adopt using these centers in cases of it not being possible to deport individuals or during the procedures of deportation. Jordan can benefit of these open or semi open centers as means to monitor, without violating rights, any individual awaiting the decision of their deportation case, instead of detaining migrant workers in the same places as convicted criminals.

Although all these programs have their difficulties, they represent for Jordan a means to impose its immigration related policy without



infringing on the human rights of regular and irregular migrant workers which are guaranteed by international law.

## **Trafficking in persons in Jordan**

Human trafficking in Jordan consists in a huge and secret, cross-country activity with an estimated total income of billions of dollars. It includes men, women and children who become victims of abductions, coercion or forced enticement and being dragged in order to practice forms of degrading work to the benefit of traffickers. For men, this means forced labor in inhuman conditions which do not respect workers' rights. For women it usually means providing domestic services, often no different than slavery, sexual exploitation and working in nightclubs. For children it means to be forced to work as beggars and hawkers or be forced into marriage or being sexually exploited, including pornographic activities.

Trafficking in persons, especially in women and children, is considered a grave violation of human rights. It is also a lucrative crime generating an equivalent of 150.2 billion dollars of illegal profits on an annual basis. The flows of human trafficking differ based on the social, economic realities in the society and traffickers adjust their working methods according to these changes. It is not possible to look at human trafficking in isolation from the economic and social realities that control it. It cannot be addressed from a criminal perspective only. There are other elements to consider such as poverty, inequality, lack of access to education and healthcare, gender discrimination including gender-based violence, racial inequality and immigration. All of these factors are causes and contributing elements to human trafficking.

No country or region is free of the crime of human trafficking which can occur anywhere whether on national, regional, sub-regional, cross-continental or international levels. The recent trends in this area present that trafficking in victims occurs from the poorer countries towards the richer countries within the same region. There

is a correlation between the richness of the country of destination (measured by its Gross Domestic Product) and the percentage of the trafficked victims from other regions (trafficking in regions). Richer countries attract the victims from various countries and origins while trafficking is limited in the countries of less fortune on the local or sub-regional flows.

Moreover human trafficking was identified as a problem encountering many economic sectors including those built into the global markets. The reports state that the economic sectors which are the most vulnerable to trafficking in persons includes the sectors of agricultural, horticultural, construction, clothing and textile, hotel and catering services, mining, logging, forestry, fishing, food processing and packaging, transportation, domestic services and other care and cleaning services. In these cases business institutions or their trading partners may carry out the trafficking including supply and construction companies and private recruitment agencies usually motivated to reap economic profits from the work of the trafficked victims or through recruiting the trafficked people into the work or services in an exploitative manner. It might also occur due to practice through a supply chain which is not subject to monitoring or regulations.

It is noteworthy that human trafficking in such cases may occur, and it actually occurs, without transporting the victims from one place to another. Therefore the focus should be on the aspect of exploitation, and not on the means by which the trafficked person reaches the destination.

**This case was legally characterized as human trafficking and for the use of weapons.**

Three Bangladeshi workers entered Al Bashir hospital after falling from the third floor of one of the recruitment agencies. They narrated their story to Tamkeen center and mentioned that two of them were subjected to abuses by their employers for who they used to work. After their insistence, they were returned to the recruitment agencies. One of them was returned by the employer to the agency. While they were in the recruitment agency, they confirmed to Tamkeen they were beaten by hands and legs. They were also locked in the bathroom. The owner of the recruitment agency deprived them from food and water. They used to drink water available in the “bathroom”. Some of the people working in the recruitment agency used to secretly supply them with leftover food or instant noodles (Indomie) without the knowledge of the agency owner. The workers emphasized that the owner of the agency entered the bathroom to threaten them with murder. He told them that he does not want to see them again and that they must choose between jumping out the window to escape or he will murder them and hide their bodies.

**This case was characterized as human trafficking, rape and withholding of passports.**

The worker M.B.S came to Jordan in 2010 through a recruitment agency of which she does not know the name. As soon as she arrived, an employer whose name she does not know took her to his home in Marj Al-Hamam. She worked six months for him. Then she met an Indonesian woman through the mobile phone. The Indonesian woman convinced her to run away from the house in order to obtain better wages. Then the domestic worker left the house and went with her friend who took her to an office of which she does not know the name. They asked for a taxi which took her to a house in Ramtha. She worked there for one and a half years with a monthly salary of 350 JOD per month. She used to get a vacation every Thursday. Then she started a part time job in more than one houses in Amman. On 1<sup>st</sup> November 2014, she was captured by the police when going to work from Sahab to Tla Al Ali. They took her to Marj Al Hamam police station. She stayed two months moving between the detention center and Marj Al Hamam police station. In that time she was introduced by a friend to a Yemeni man called Ali. Ali brought someone to do her bond from the police station. He took 450 JOD and she left with him to his house in Jabal An-Nadif. Ali confiscated her passport which she received from the police station. He had other girls of other nationalities, Indonesian and Filipino, in his house. They would go to work part time and return back to the house. The worker asked Ali to return to her house in Sahab, but he refused, then raped and then asked her for 700 JOD to return her passport. An Indonesian woman assisted her and helped her to escape. She fled to a friend's house.

## Jordan and combatting human trafficking

Conflicting laws and legal loopholes have led to the difficulty in identifying victims of human trafficking, including those subjected to gross violations of their labor rights, migrant workers and other vulnerable groups. This has caused the weak protection of the rights of this category and the impunity of the crime's perpetrators. The loopholes in the legislation make it difficult to implement, thus hindering access to justice. As a result, many cases of human trafficking or forced labor are dealt with as labor cases, given that the Anti-Human Trafficking Law does not clearly define the crime. Moreover it does not provide clear rights for the victims and it does not distinguish between them nor indicate how to protect these rights. The general legislation lacks any provision granting the victims temporary residence. Additionally, many other examples of legislative gaps exist.

Pursuant to the provisions of Article 2 of The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the objectives of the convention aim to "prevent and combat trafficking in persons, with particular attention to women and children." Among the obligations of the state parties is the criminalization of this state act, defined by Article 3 of the convention. Article 5 of the Protocol stipulates that the state party is committed to adopt any necessary legislative or other measures to criminalize trafficking in persons, in cases where it has been intentionally committed. In addition, the state parties are committed to adopt any measure necessary to criminalize any attempt in trafficking in persons by contributing as a partner, organizing or directing others to commit the crime.

Based on the previous commitments, Jordan has enacted the 2009 Anti-Human Trafficking Law as one of the requirements of the Protocol which defines the crime of human trafficking through Article 3 as follows:

- **For the purposes of this act, the term “Trafficking in persons crimes”:**

1. Shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, and/or;

2. The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (1) of this article;

**B. For the purposes of paragraph A,** “Exploitation shall include, at a minimum, the exploitation of people to work in slavery or practices similar to slavery, forced labor, servitude or the removal of organs or the prostitution of others or other forms of sexual exploitation, or services;

**C. The crime shall be considered transnational in the following cases:**

1. If it has been committed in more than one country
2. If it was conducted in one country, prepared or planned or overseen in another country
3. If it was committed in any country through a criminal organization active in criminal activities in more than one state
4. If it is committed in the state and its implications are in another state

It is notable that this definition in the act is similar to that included in the protocol with slight differences.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children does not only introduce the definition of the crime. It also includes many of the rights and benefits of the victims of human trafficking, or those who might be victims of this crime, whether submitting the complaint or in the stage of investigation. This is because the victim of this crime is an unusual victim who is subject to the worst forms of exploitation and violations of their fundamental rights. Since this victim is often a foreigner with limited education, they face many obstacles hindering their access to available remedy to victims of ordinary crimes such as lack of knowledge of the language of the host country, ignorance of laws, residency and foreign affairs and other legislation. Furthermore they lack the finances to hire a lawyer; in addition they suffer from shock and psychological trauma caused by the abuse suffered by the victim.

The protocol takes this into consideration therefore develops a state of obligations for the state party in order to allow the victim recourse to available remedy in the state. In order to implement these obligations, there is a need to amend a set of regulations governing the penal labor and social issues and foreign affairs in the state party, not only passing a law that criminalizes trafficking in persons.

The state party has the absolute freedom to take appropriate legislative measures to fulfill its international obligations under the convention, whether this has been done under a single or several laws. However this freedom is not absolute since the end result should be the implementation of such obligations.

There were numerous rights of victims in the protocol, some of which are related to the mechanism of filing the complaint. Some others are related to the investigation phase of such crime while the final part presents the rights that the victim enjoys after the issuance of the final judicial decision stating that it is an actual victim of this crime.

These rights were strengthened by the fundamental principles provided by the Human Rights Council on May 2, 2014 concerning the rights of victims of trafficking in persons to obtain effective remedy. It should be remembered that the purposes of the protocol pursuant to the provision of article of 2/B is to protect the victim from trafficking and help them, with full respect for their rights.

In the same context Jordan has not witnessed any significant judicial implications related to criminalizing and punishing traffickers. This is perhaps due to several reasons, most notably the recent criminalization of trafficking in persons and the lack of clarity in the law.



**The domestic worker MD was recruited through a recruitment agency.**

She worked for a family for a year and then it was found that she is suffering from tuberculosis after clinical tests. The employer purchased a ticket for the worker based on her desire to return to her country. She was returned to the recruitment agency which in turn did not deport the worker. The agency sent the worker to the agency owner's house and other homes for more than one year without pay, residency, work permit or medication.

**SK is a Sri Lankan domestic worker who gave her testimony:**

"I came to Jordan in April 2014 through a recruitment agency. I was sent to work for my employer on the same day. I worked for him for 8 months. I worked from 7.30 am to 3.30 am. Besides, I used to work in the house of the mother of my employer and I was not to receive any payment for working in the other house." She adds "My passport was confiscated by my employer who did not issue a residence or work permit for me. I used to sleep in the laundry room and I was not allowed to take a shower. I was also not allowed to contact my family."

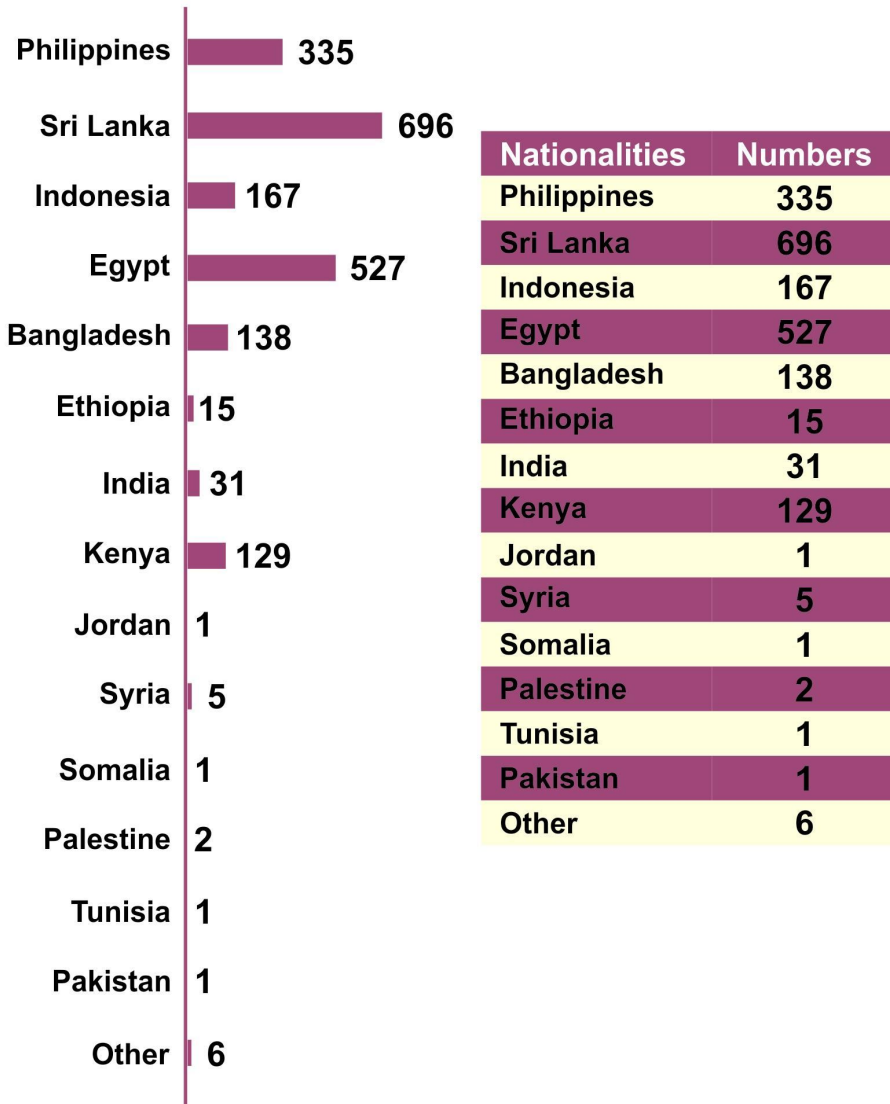
The domestic worker affirms that the employer hit her and threatened her with a weapon. He forced her to work and threatened to kill her if she did not obey him. After that she escaped and resorted to Tamkeen Fields for Aid.

## Recommendations

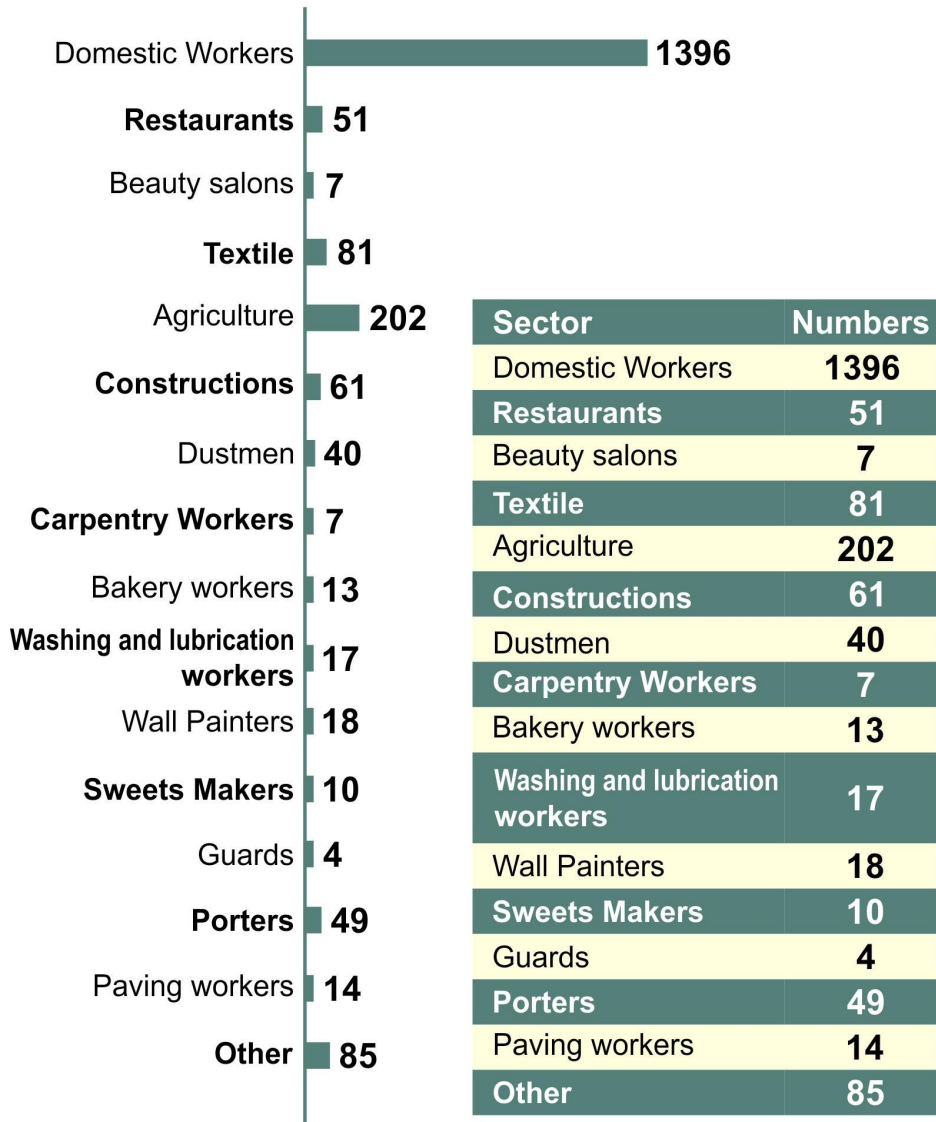
1. Jordan's ratification to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990, and the ILO Conventions; C087 on Freedom of Association and Protection of the Right to Organize 1948; C098 on Collective Bargaining; C154 on Collective Bargaining, 1981; and C189 on Decent Work for Domestic Workers.
2. Abolish all discriminatory legislation such as the decision of minimum wages.
3. Raise the legal and educational awareness of the migrant workers regarding their rights and duties and laws related to them.
4. Activate of the role and efficiency of the labor inspection system through increasing the number of inspectors, enhancing their capacity, and providing them with the knowledge and with the modern technological tools.
5. Establish a labor court to consider cases of workers' rights in a short time, and the necessity to retain detailed information about the employer, as his/her home and work addresses and phone numbers by the Ministry of Labor.
6. Re-define the crime of Trafficking in Persons clearly and accurately, taking into account the legislative environment in Jordan which does not correspond with the definition stated in the protocol and aiming at reducing the difficulties of applying this law.

7. Find legal solutions that prevent the expulsion and deportation of workers, provide translation and reduce the slow pace of the court proceedings in the presence of statute of limitations, which lasts for two years for labor rights violation and for three years in case of damages. Such statute of limitations prevents the victims of trafficking in persons from obtaining the judicial remedy which is needed to protect their rights.
8. Stipulate the criminalization of forced labor clearly and explicitly, which is prohibited in the Constitution, in the Jordanian Penal Code and other relevant laws, and impose appropriate penalty in case of committing, as convention 1930 necessitates the state party to consider forced labor a crime not a work violation like any other work violations.
9. Create private domestic workers' recruitment agencies based on the part-time system, thus domestic workers do not need to stay in the houses of their employers. It is important to simultaneously strengthening the effective inspection on those agencies by labor inspectors.
10. Ensure that all domestic workers have been trained before their arrival to Jordan, and provide them with required orientation on their rights and obligations; the Jordanian traditions, customs and culture; and provide them with guidance about the places where they can resort to in case of encountering abuse. It is recommended to establish an official shelter for the domestic workers who are facing problems and introduce them to it. It is also advisable to create a welcoming program for the domestic workers and provide them with quick awareness-raising about their rights and duties, in addition to places and means to seek assistance.

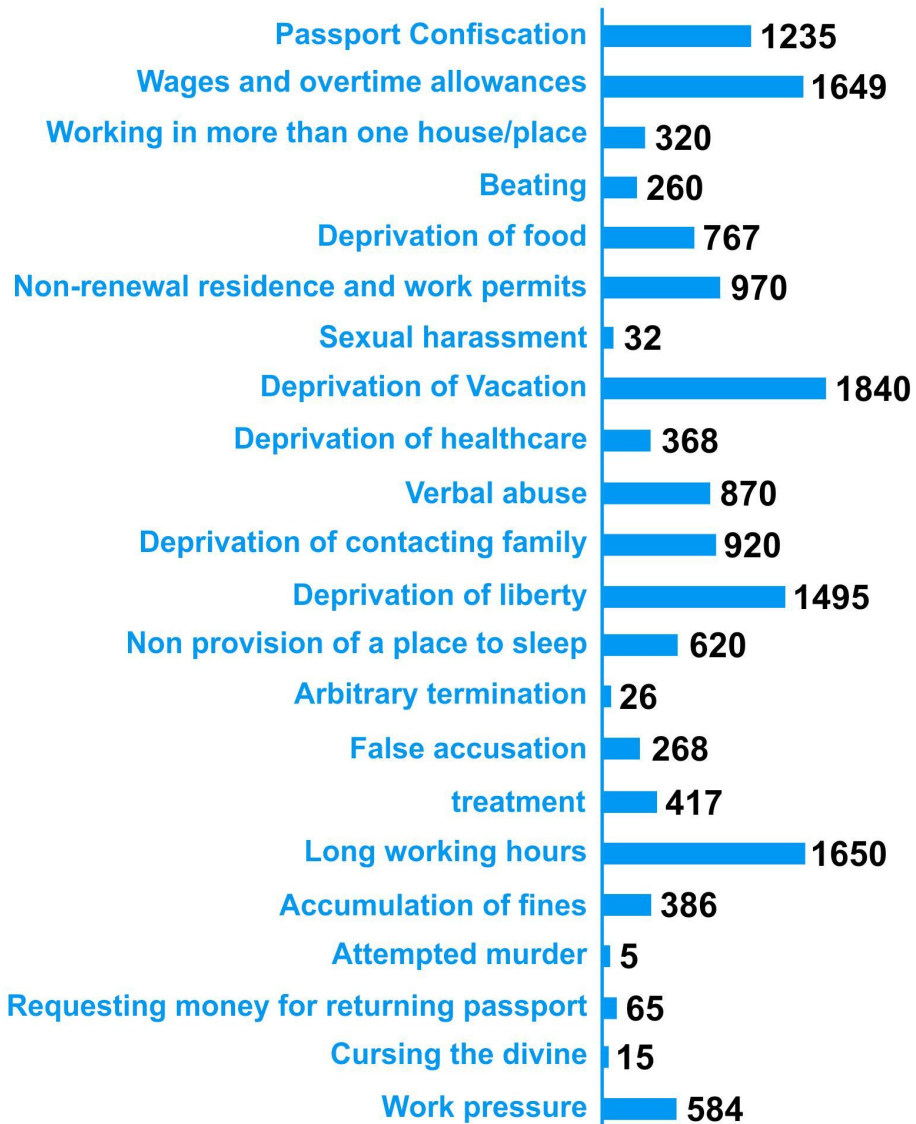
**Distribution of Complaints Received by Tamkeen Center  
during the period of 30th June, 2012-30th June, 2016  
Based on Nationality**



**Distribution of Complaints Received by Tamkeen Center  
during the period of 30th June, 2012- 30th June, 2016  
Based on Work Sector**



**Distribution of Complaints Recieved by Tamkeen Center  
during the period of 30th June, 2012-30th June, 2016  
Based on the Violation**



<b>Violations</b>	<b>Number</b>
<b>Passport Confiscation</b>	<b>1235</b>
<b>Wages and overtime allowances</b>	<b>1649</b>
<b>Working in more than one house/place</b>	<b>320</b>
<b>Beating</b>	<b>260</b>
<b>Deprivation of food</b>	<b>767</b>
<b>Non-renewal residence and work permits</b>	<b>970</b>
<b>Sexual harassment</b>	<b>32</b>
<b>Deprivation of Vacation</b>	<b>1840</b>
<b>Deprivation of healthcare</b>	<b>368</b>
<b>Verbal abuse</b>	<b>870</b>
<b>Deprivation of contacting family</b>	<b>920</b>
<b>Deprivation of liberty</b>	<b>1495</b>
<b>Non provision of a place to sleep</b>	<b>620</b>
<b>Arbitrary termination</b>	<b>26</b>
<b>False accusation</b>	<b>268</b>
<b>Ill-treatment</b>	<b>417</b>
<b>Long working hours</b>	<b>1650</b>
<b>Accumulation of fines</b>	<b>386</b>
<b>Attempted murder</b>	<b>5</b>
<b>Requesting money for returning passport</b>	<b>65</b>
<b>Cursing the divine</b>	<b>15</b>
<b>Work pressure</b>	<b>584</b>

**Distribution of complaints received by Tamkeen Center  
during the period of 30th June, 2012 - 30th June, 2016  
Based on the Sex**

