



Between a Rock and a Hard Place

Migrant Workers Caught Between
Employers' Abuse and
Poor Implementation of the Law



The Status of Domestic Workers
and Egyptian Workers in Jordan



Tamkeen

**Tamkeen Center for Legal aid
and Human Rights**

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**This study is made possible by the support of
Open Society Foundation and Foundation For The Future,
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Introduction

Globalization has changed the world into a vast, interconnected village. Because globalization has eased people's ability to communicate and travel across the globe, it has catalyzed the transmission of labor from one country to another, making it noticeable and widespread. Every single country, no matter if it has adequate resources or not, exchanges its labor forces with those from foreign nations. In the modern world, no state is untouched by migrant workers.

People are driven to migrate to other countries because of restricted employment opportunities, poor living conditions, and economic hardship that they may face in their homeland. When migrant workers travel to foreign countries looking for employment, they are often alienated and isolated from society because of their cultural, ethnic, religious, and linguistic differences. This marginalization renders migrant workers extremely vulnerable, ultimately making them targets for a wide range of rights violations. The treatment of migrant workers has quickly become one of the most prominent and challenging issues for all those interested and involved in human rights.

Prominent international and national human rights organizations, research institutes, and government departments have repeatedly released regional and international reports about the conditions of migrant workers in different countries to raise awareness about and improve the poor conditions faced by many migrant workers. Their relentless efforts emphasize the categorical need for continuous monitoring so as to create a clear idea of what needs to be done to improve conditions, fill the legal gaps that impede equity, and ensure effective and fair implementation of relevant legislation.

Like many other countries across the globe, Jordan is both a sending and receiving country of migrant labor. While there are more than six hundred thousand Jordanians working abroad, there are around the same number of migrant workers, both regular and irregular, working in various sectors



throughout Jordan.

Even though Jordan has adopted many international human rights conventions, enacted provisions, and developed governmental departments to protect migrant workers, none of these measures have actually succeeded in strengthening and preserving the rights of migrant workers.

What many people do not realize is the fact that the actual effective protection of migrant workers' rights does not solely come from the adoption of measures and the issuance of legislation; fostering sustainable protection for migrant workers' rights is rooted in the serious implementation of these enacted measures. Moreover, while Jordan is at the forefront of issuing and amending legislation, this legislation is sometimes issued without adequate study, which creates an inherent deficiency in the ability of the government to actually implement this legislation.

This is Tamkeen Center for Legal Aid and Human Rights' third annual report about the migrant workers condition in Jordan. Our first annual report, entitled "Doubled Alienation," focused specifically on the state of domestic workers in Jordan, while our second annual report, "The Weakest Link," highlighted the conditions migrant workers experience when they are employed as domestic workers and as workers in Jordan's Qualified Industrial Zones. Our third annual report likewise focuses on the evolving situation and rights violations currently faced by domestic workers in Jordan. It is imperative that the plight of domestic workers in Jordan and their exposure to rights violations is continually monitored and addressed on an annual basis to not only raise awareness about the violations that migrant workers still face, but also to see where our efforts need to be focused so as to most effectively improve the conditions of migrant workers.

Our third annual report also addresses the condition of Egyptian migrant workers. Even though 68% of the migrant workers in Jordan are Egyptian, the exploitation and rights violations experienced by Egyptian migrant workers in Jordan are rarely addressed by other reports and research studies. Egyptian migrant workers are involved in many sectors, with a majority employed in the agriculture sector, followed by a vast number of Egyptians employed in the construction sector. These Egyptian migrant workers spend hour after hour every day, dedicating their lives and livelihoods to developing and enriching the country.

The foundations of this report are rooted in the claims received by Tamkeen Center for Legal Aid and Human Rights throughout the past year. In addition to pursuing and resolving these claims, Tamkeen's dedicated staff and volunteers conducted a number of interviews, meetings, and discussions with migrant workers, their employers, other civil society organizations, experts in the field, Unions, various embassies, ministries and governmental departments in order to gain a comprehensive picture of the state of migrant workers in Jordan in 2011

and the first half of 2012.

Tamkeen Center for Legal Aid and Human Rights urges all the competent authorities, civil society organizations, and international organizations in Jordan to review this report and adopt the recommendations included in the report. We believe that the recommendations in this report not only support and protect the rights of migrant workers in Jordan, but also enhance the development process of human rights as a whole and ensure the fulfillment of Jordan's international obligation to strengthening human rights.

Tamkeen Center for Legal Aid and Human Rights shows gratitude and appreciation to all who contributed to this report.

**Tamkeen for Legal Aid and Human Rights
August 2012**



General Summary

Administrative and Legal Framework of Migrant workers in Jordan

According to statistics released by the Ministry of Labor in 2011, there are around 280,275 documented migrant workers in Jordan. In addition to these documented workers, there are also undocumented migrant workers, whose number amounts to half the number of documented migrant workers. The Ministry of Labor has the main role in dealing with migrant workers in terms of organizing their work, determining the mechanism of recruitment, and granting work permits. The Ministry of Interior is responsible for granting residency permits, and issuing visas. The Directorate of Public Security, with its different departments, is in charge of enforcing the laws, regulations, and official orders and assisting public authorities to carry out their tasks.

The Legal Framework to Protect Migrant Workers

- Jordan is obligated by the international conventions and treaties that it ratified to protect the rights of migrant workers residing in its borders. The provisions of these conventions cover all the individuals within the territory of the related state who are subjected to its jurisdiction without any kind of discrimination, whether based on race, color, sex, language, religion, political opinion, beliefs, national or social origin, property ownership, birth status, or other.
- Jordan has adopted many international human rights conventions that have been published in the Official Gazette and have become a part of Jordanian national law. These ratified conventions include the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Both covenants emphasize the rights stated in the Universal Declaration of Human Rights. Moreover, Jordan adopted the United Nations Convention against Torture, the International Convention on the Elimination of All Forms of Racial



Discrimination, the convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women.

In addition to the United Nations Convention against Transnational Organized Crime in 2000 and the protocols thereto, there is the protocol that prevents, suppresses, and punishes trafficking in persons, especially women and children.

- Jordan is also party to a number of international labor conventions, which include the Conventions on the Freedom of Association and the Effective Recognition of the Rights to Collective Bargaining, the Elimination of All Forms of Forced or Compulsory Labor, Abolition of Child Labor, and the Elimination of Discrimination in Respect to Employment and Occupation. As a member of the International Labor Organization, Jordan is also obligated to their established principles. It also signed 24 international labor conventions, only 14 of which have been published in the Official Gazette.

- Although agricultural and domestic workers are governed by the whole of the Labor Law of 2008, the Ministry of Labor said that they are issuing specific regulations that govern domestic and agricultural workers. While the domestic workers' regulation has been passed, the agricultural workers' regulation has not been passed yet, creating a lack of clear governance in relation to these workers.

- On December 24, 2011, the national minimum wage was raised from 150 JD to 190JD. However, migrant workers were excluded from this wage increase, violating C111 Discrimination (Employment and Occupation) Convention. It also violates the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social, and Cultural Rights. It also breaches Article 5 of the bilateral agreement between Jordan and Egypt concerning cooperation in the workforce.

- At the beginning of 2012, the Ministry of Labor issued new instructions that organize the entrance, exit, vacations, and repatriations of Egyptian migrant workers who have work permits in the Kingdom. In order to leave the Kingdom on vacation or permanently, migrant workers must get a signed permission and approval from the employer to leave the country.

In order for permanent repatriation of the worker, the employer and the worker must also sign a clearance. These instructions make the worker victims of the blackmailing by the employers.

- The Jordanian employer is committed to obtaining work permits and residency permits for his worker. If the employer ignores or stops fulfilling this commitment, the migrant worker is the one who has to pay the overstay fines. The migrant worker is the one punished and subject to arrest because he violated the provisions of the Residency and Foreigners' Affairs Act. Since the law obligates

the employer with this commitment, the employer should be the one who is punished for not being committed to fulfilling this obligation for the worker. However, it seems that the law punishes the worker for a breach of commitment made by the employer.

Domestic Workers

- In 2011, 43593 domestic workers in Jordan had work permits, which does not include the undocumented domestic workers.

Although the whole Labor Law issued in 2008 is supposed to apply to domestic workers, many judges are confused as to whether they should apply the whole Labor Law to domestic workers, or just the specific regulation within the Labor Law that discusses domestic workers. This confusion leads some judges to give domestic workers access to the whole Labor Law and, at the same time, other judges to limit domestic workers' access to this specific regulation. This inconsistent application of the Labor Law makes it so that domestic workers are sometimes denied general rights defined by the Labor Law such as overtime payment, receiving official and religious holidays, and other rights not specifically defined by the Labor Law.

- A large step taken by the Ministry of Labor to strengthen the protection of migrant workers is when they amended Regulation No. 90/2009 of domestic workers, cooks, gardeners, and other workers who fall within that sector on September 13th, 2011. The Ministry replaced a provision requiring the domestic worker to obtain approval from the employer before leaving the house with a provision requiring the worker to inform the employer before leaving the house.

Violation to Domestic Workers Rights (A State of Continuous Suffering)

- Although there is no article that commits the migrant worker to stay inside their employer's house day and night, most domestic workers face forced confinement within the house that they work. This is considered a deprivation of liberty, and it makes it difficult for the domestic worker to report any abuse she is subjected to.
- Out of the 757 domestic workers cases received and pursued by Tamkeen Center in 2011, 530 workers had their passports confiscated by employers and recruitment agencies. Some of them received their passports after paying a certain amount of money to the employer and the recruitment agency. This confiscation of official papers is a clear violation of Article 18 of the Passport Act No. 3 of 2002. It also violates Article 222 of the Jordanian Penal Code.
- Psychological violence is the most common violation to which domestic workers are subjected. They face poor treatment as well as various kinds of intimidation, violence humiliation, insults, being yelled at, and inappropriate living

conditions. This poor treatment amounts to slavery like conditions for the worker. Moreover, a number of domestic workers are subjected to physical abuse, harassment, and sometimes rape. By confining domestic workers in closed places, it makes it difficult to prove these kinds of rights violations.

- Many domestic workers are deprived of medical care. Some domestic workers fell from high balconies while cleaning them; many domestic workers work in environments that are unsafe, and thus fall from these high balconies, often suffering broken bones or death. It may cause them permanent disabilities that affect them for the rest of their lives. In 2011, the total number of death cases for Sri Lankan workers was 19 cases, 6 of which were suicide. The number of death cases for Indonesian workers was 22 cases as well as 68 work-related injury cases.

- Some domestic workers suffer from food deprivation, in terms of quantity and quality. They are also deprived of their right to privacy. Many do not have a private room in which they can close their doors and sleep in.

- Out of 757 domestic worker cases filed with Tamkeen, 465 were about total or partial salary withholding. Although the Minister of Labor issued a decision of opening a bank account for the domestic worker, the employers consider this decision as a kind of requirement to obtain a work permit. In reality, the employer is not committed to put the worker's salary into this account. In fact, this decision is not supported by any implementation mechanism.

- Many domestic workers suffer from work pressure, whether it is long working hours or the amount of work that needs to be performed. Although the Regulation of Domestic Workers limits the number of hours a worker can work to ten 'flexible' hours per day, and establishes that the worker receive one day off during the week, an annual vacation, and a sick leave, domestic workers are often deprived of these rights.

Repatriation "castles in the air"

- In 2011, the number of domestic workers who turned to the Sri Lankan embassy was around 1,870. The number of domestic workers who turned to the Indonesian embassy was around 974 workers. Some of them were subjected to violations by their employers. Others could not bear the working conditions, and refused to continue. Other domestic workers left their working places after finishing the contract period, but they accumulated overstay fines since their ex-employers did not issue work and residence permits for them. The major obstacles that stop the domestic worker from returning back home are the unavailability of air tickets, the accumulated overstay fine, and the Police Notification "Absconding Report" which is filed by the employer.

Recruitment and Employment Agencies and the Rights of Employers

- The Ministry of Labor restricted the recruitment and employment of domestic workers to the recruitment agencies. Most of the recruitment and employment agencies treat the domestic workers as a commodity, subjected to loss or profit logic. Unfortunately, some recruitment agencies, authorized by the employers to settle their domestic worker issues, send her to her home country and confiscate the money paid by the employer. Moreover, they exploit the worker and force her to work on a daily basis. However, this poor treatment does not mean that there are not recruitment agencies that take care of the domestic worker through their contractual period as well as raise awareness of both employers and domestic workers about the rights and obligations of each party.
- The employer dons a heavy financial burden when recruiting a domestic worker. The recruitment agencies exaggerate the cost of the domestic worker, sometimes leading to the domestic worker being subjected to forced labor.

Egyptian Migrant Labor in Jordan

- Egyptian migrant workers make up 68% of the migrant labor in Jordan. In 2011, 190481 Egyptian migrant workers obtained work permits in Jordan. There are 135000 Egyptian migrant workers without work permits in Jordan.

The Recruitment System: An Environment Fostering Exploitation

- Methods of recruitment have a number of gaps. These gaps allow brokers to earn millions of dinar from trading in contracts, particularly regarding contracts in the agriculture sector. It is easy to obtain work permits in the agriculture sector due to the preferable conditions such as permit fees being lower than other sectors.
- Although Article 12 of the Labor Law states that the employer has to cover the cost of the work permit, the Egyptian workers are the ones who actually cover the price of the work permits. In these cases, the worker covers at least half the value of the work permit. If the employer is slow to obtain the work permit, the worker is unable to receive the money they paid for the insurance bond when they crossed the border into Jordan.
- If the migrant worker's work contract has been expired for 90 days, and he has not returned to his country, he must obtain a permit to receive social security benefits. The worker who does not have a prior work contract must pay the cost of the work permit retroactively for the whole period of his subscription in social security. This has led to a loss of wages to the social security institution for a large segment of the Egyptian workers. Many employers are slow to return passports to workers after the end of their contracts, citing excuses.

- The cost of one job opportunity for an Egyptian migrant worker coming to Jordan is 849.5 JD, which equals \$1200. This amount does not include the money the worker has to pay while he is in Egypt, before he comes to Jordan. The above amounts are what Egyptian migrant workers pay without the intervention of brokers or the dealers. If a broker interferes, the worker will most likely pay double this amount. This exploitation compels the migrant worker to leave his contracted work and seek higher income. He may also work more than one job and try to work more than 18 hours a day to earn more money.
- In 2011, 17,365 Egyptian workers had work related accidents. These accidents left these migrant workers with anywhere between 10% and 80% of their bodily functions permanently crippled. In fact, 20% of these cases resulted in the amputation of workers' limbs. The number of work related accidents that result in death are 146 per year.
- In Jordan, 41.8% of work related deaths and injuries occur in the construction sector. This high percentage is followed close behind by the number of work related deaths that occur in the chemical sector due to the workers inhaling and coming into contact with poisonous substances. Inhaling poisonous gases often damages the workers' bodies so much that 81% of their body does not function properly.

Migrant Workers in the Agriculture Sector: “Neglected Rights”

- In accordance with the latest amendments to Jordanian labor laws in 2008, agricultural workers are now included under the umbrella of labor laws, even though they were previously been excluded from the Labor Law. However, agricultural workers are not completely under the umbrella of the labor law because the Ministry of Labor stated that agricultural workers have to have a regulation specifically for them. Although three years have passed after modifying the Labor Law to include agricultural workers under its umbrella, this regulation still has not been issued.

Violations of the rights of Egyptian Workers

- Agricultural workers suffer from abuses that include the confiscation of their passports and withholding of some or all of their wages. In addition, they are exposed to suffering in their workplaces, verbal abuse, mistreatment, and poor living conditions (often in plastic green houses). They are also deprived of their weekly day off and yearly vacations. They also work long hours. Due to the nature of rural areas and strong social ties, agricultural workers are afraid to file complaints against their employer in the labor offices because the employer might find out and take revenge on the worker.
- Although Egyptians are not confined by residency laws, and they are entitled to

reside in Jordan whenever they want for as long as they want, with the condition that they report the place of residence, Egyptian workers are subject to security surveillance. He might be stopped while walking and asked about his work permit, despite the fact that he is not in a workplace. More often than not, according to the workers, these surveillance sessions are interspersed with violations and verbal abuse.

The Adequacy of Redressing Mechanisms

- Although there are many places and ways for workers to file complaints, the mechanism still lacks the elements needed to effectively fulfill its function. The hotline in the Ministry of Labor works only during the working hours. After the working hours, the complainer should leave a voice message. This is particularly difficult for the domestic workers. In addition, the answering machine in the hotline uses a language that cannot be understood by the migrant workers. Regarding labor directorates that are widespread throughout the kingdom, it is very difficult for the domestic workers to go to them to file a complaint. Moreover, the police stations do not have enough interpreters to communicate with the domestic workers.

Difficult Accessibility to Justice

- Litigation is available to every single person without discrimination. Nevertheless, the prolonged legal process leads to migrant workers sustaining damages and not receiving just treatment in many cases. The majority of migrant workers leave Jordan before they are able to demand their financial rights because of the negative practices followed by the Public Authorities, which ultimately prevent them from staying in the country until they receive their dues and appropriate compensation for the damages they suffer from. The administrative authorities and the public security repatriate a large number of migrant workers before being redressed.

- Another challenge that prevents victims from receiving justice is required expenses for pursuing litigation. Jordanian law requires the presence of a lawyer, and many charge more than 1000 JD for resolving a case. This high financial barrier prevents the migrant worker from exercising their rights through litigation.

- Jordanian Labor Law states that if a worker does not claim his or her salaries for two years, the employer no longer has to pay the worker those unpaid salaries. The law likewise states that the worker loses the right to claim damage compensation after three years have passed without them claiming their rights. Because domestic workers often face forced confinement and deprivation of contacting people outside the house, they are often not able to claim their rights in the statutory time period. This statutory time period adds to the difficulties they face in following up the cases in the courts resulting from their lack of knowledge

about the Jordanian legal system as well as the language used in the different levels of investigation and in court.

The Innocent Behind Bars

- One of the main challenges preventing migrant workers from accessing justice is the common practice of employers threatening the migrant workers with sending them to prison if they try to claim their rights. When the worker demands his rights, the employer files a complaint of theft against the worker. Most of these complaints of theft are false, and the migrant workers are discharged at the end of the case proceedings.
- The phenomenon of migrant workers detention and forced confinement is widespread. It has no legal or legislative justification. The Police Station will detain any migrant worker whose employer has reported that he has left the work. This practice is an arbitrary and illegal deprivation of liberty. Having the worker leave the work before the end of the agreed contractual period is not a crime, and the migrant worker should not be detained. In addition, this practice embeds a form of racial discrimination in society because only migrant workers who leave their employment are detained, and not Jordanian workers. It also ripens the conditions for exploiting the migrant worker. It prevents the workers from accessing justice. Although the Public Security Directorate issued instructions regarding reports of absconding, the workers in the police station refuse to put them in action, still insisting on these arbitrary practices that lack any legislative or legal base. At the same time, the Public Security Department presents itself as a partner with Civil Society in protecting migrant workers' rights and protecting them from the poor treatment they are subjected to.
- A negative practice commonly performed by the Jordanian public authority against migrant workers is arbitrary administrative detention, which is essentially the police detaining migrant workers for technicalities that do not have any legal grounding. It violates the international human rights conventions ratified by Jordan that guarantee the right to liberty and have been published in the official Gazette for years. The detention of migrant workers with no legal or legitimate reason is a phenomenon that needs serious intervention from the concerned authority. This practice needs to be stopped, and the victims redressed and compensated for the damages they have suffered.
- Migrant workers of all different nationalities are continually threatened by deportation. Currently, there is an abuse of power with regards to deportation. The decision to deport is arbitrary. Upon the recommendation of the related authorities, any migrant worker who is arrested can be deported. Although the employer is the only one who is in charge of issuing the work permit and the residency permit, the migrant worker will be deported whether he has a residency permit or not. It is noteworthy to highlight the speed with which the deportation

decisions are issued; the related authorities treat each case as if there is a one-size-fits-all model. As soon as the migrant worker arrives at the police station, a recommendation of deportation is issued no matter whether the worker is the complainant or the accused. Within hours of the recommendation, the governor or the administrative governor issues a decision for the deportation and the detainment of the worker until the deportation occurs. Moreover, any foreigner who has a complaint filed against him should be deported, even if the court discharges him. The person who issues the deportation decision does not get enough time to appeal the deportation.

Forced Labor

- Jordanian legislation is still lacking in respect of forced labor. Jordanian authorities have still not adopted any concrete legislative, administrative, executive, or judicial measures to prohibit the practice of violence against or mistreatment of this category of workers. Jordanian legislation is still incapable of dealing with the problem of forced labor. This legislation does not include provisions that efficiently combat forced labor or redress its victims. The Jordanian Judiciary continues to treat the cases of forced labor as civil labor cases and not as criminal cases that fall under Human Trafficking.

Crime of Human Trafficking

- The Human Trafficking Prevention Act is one of the first acts issued in the region. Jordan adopted the definition of human trafficking as stated in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, with only a slight change in some of its vocabulary. When Jordan was ratifying this Act, it emphasized several organizational details at the expense of highlighting the rights of human trafficking victims, such as being allowed to legally stay within the country until they receive a final decision to their case in court.

The National Committee to Combat Human Trafficking

- The National Committee to Combat Human Trafficking sits on the top of the combating human trafficking structure in Jordan. It has the leading role in guiding and supervising efforts made to combat human trafficking. In order to effectively play a leading role, the committee needs significant support by its members and needs to conduct regular meetings, which should take place every three months according to the stated Act, not every six or seven months as what actually happens now. The continuous changing of the government has a huge impact on the regular meeting of the committee.

The National Strategy to Combat Human Trafficking

- In 2010, the Ministry of Justice issued a National Strategy to Combat Human

Trafficking and defined its framework. The strategy defines its objectives that reflect the vision of the Jordanian Government and the expectations in the area of human trafficking for the period of 2010- 2012. Although 2 ½ years have passed after the strategy has been issued, and although the set time period for completion has almost been reached, less than 25% of the strategy has been achieved.

The First Component: Prevention

- The only thing that has been achieved by the National Committee's plan are the electronic link between the Ministry of Labor and Ministry of Interior, the issuance of the necessary instructions to put in action The Regulation of Organizing the Domestic Workers Recruitment Agencies, and the campaigns that prohibition of child labor. Regarding awareness raising activities, what has been achieved is less than 20%, mostly through some publications prepared by the Human Trafficking department in the CID. The publications did not state anything about the hotline available in the directorate of CID or even about the "Police Friend" sessions that raise participants' awareness about human trafficking. In addition, other publications have been printed in different languages regarding the rights and duties of domestic workers prepared in cooperation with Tamkeen Center, Ministry of Labor, and PSD. No other activities mentioned in the strategy have been implemented. Awareness campaigns play a large role in the prevention of human trafficking crimes on both the societal level and the migrant workers' level because the information contributes to alerting the individual about the nature of these crimes, avoiding these crimes, identifying the mechanisms of reporting these crimes to the police, and assisting the victims. Regarding cooperation with civil society organizations, it is still available. Although the first step always comes from the CSOs, these CSOs are never invited to any of the National Committee's meetings, nor are the minutes from these meetings ever published. Additionally, The National Center for Human Rights, which should act as a representative body for the CSOs, has never tried to coordinate between the active CSOs who work in this field. The work in this field was carried out by CSOs and international organizations. Regarding training, we can say a considerable portion of this strategy was achieved by civil society organizations, even though there was no noticeable coordination to establish a training program for such a purpose. Furthermore, Training of Trainers (ToT) courses have been held in cooperation with the American Bar Association in 2010. There was also the creation of a national training team in the International Organization of Migration (IOM) in 2011.

- Even though it is the first objective stated in the strategy and the first step that needs to be taken to combat human trafficking, the evaluation of the status of human trafficking in Jordan is still under the consideration of the related institutions. The related institutions are still conducting research on human trafficking but no practical steps have been completed regarding resolving this

issue. There are no studies or reports related to the reality of human trafficking published in the kingdom.

- With respect to legislation that addresses combating human trafficking, we have not noticed any review or assessment to know whether the provisions stated in the legislation go in accordance with or contradict the Human Trafficking Prevention Act. No practical steps to assess the efficiency of applying the Human Trafficking Prevention Act have been taken throughout these past 2 ½ years. Furthermore, no research, study, survey, or evaluation about applying the law has been prepared; this may be due to the fact that the law is not applied adequately, or it might come as a result of the government's unwillingness to admit that human trafficking exists in Jordan, even though it exists in all parts of the world, including developed countries.
- Generally speaking, no reports, research studies, or policies that take advantage of the experiences of other countries and focus on developing a strategy to prevent child labor and child exploitation were prepared or adopted.

The Second Component: Protection.

- In reality, the difficulty in recognizing and identifying the victims still exists. The border administrators and health workers conduct their job robotically. Although several NGOs conducted training programs with law enforcement entities about how to identify trafficking victims, these law enforcement entities have yet to recognize these victims. All of this is a result of a pervasive attitude that fails to recognize human trafficking victims. Moreover, a national team was established to investigate suspicion of human trafficking in the field. This team is in its fledgling stage and needs support in order to reach its full capacity and fulfill the desired results as outlined at its establishment. This team has still not concretely affected the current situation. Its work has not been evaluated and its ability to recognize victims has not been tested. Naturally it is important to evaluate the team's performance and to enhance its ability to achieve its objectives. It is notable that this team lacks female members, who are particularly essential for treating women and children victims.
- A special system for Shelter Units was established in March 2012. This is the only step adopted to found Shelter Units. No database was found, no trained personnel were found, and the protection procedures still lack their main components.
- The Ministry has a hotline, but it can only be accessed during work hours. After work hours, it switches to the answering machine. In this case we cannot call it a hotline, even though translation is available. The National Center for Human Rights has no special line to report human trafficking crimes. The only hotline available 24 hours is the hotline of the Public Security department, but the

problem is that it does not provide translation service. Generally, there is a lack of translators who speak the languages of the migrant workers. The National Committee has not taken any serious steps to provide translators.

- As for offering psychological, legal, and social assistance, none of the aforementioned sub strategies were implemented. The only steps were made by NGOs, such as The Jordanian Women's Union (JWU), Adaleh Center for Human Right Studies, and Tamkeen Center for Legal Aid and Human Rights, in addition to the efforts of the IOM to rehabilitate the victims.

- In one case, temporary residency permits were issued for nine domestic workers. The process of providing identification documents usually takes places in coordination with the embassies of the migrant workers' countries. These embassies play the major role in issuing passports to their subjects. These passports are essential in issuing work permits and nationality permits for the victims. It should be taken into consideration that the law and the governing instructions do not address the rights of the victim to reside and obtain new work permits, which is a pressing lack in the victims' protection.

- Until now, the committee has not held any informative program for journalists about the crime of human trafficking.

The Third Component: Prosecution

- In spite of the training courses which were conducted by the CSOs and the international NGOs for the judges and public prosecutors, there still remains a misunderstanding concerning the crime of human trafficking and the extent to which it overlaps with other crimes, such as the confiscation of passports and sometimes the demands on workers. Practically, we do not notice any adequate judicial implementations or verdicts of any worth related to human trafficking (unless we include organ trafficking cases which had many verdicts issued). Unfortunately, the Jordanian legislation still lacks the legal provisions to protect witnesses.

- Until today, a Combating Human Trafficking Unit does not exist in the related institutions. What exists now is the Department of Human Trafficking in the Public Security. The Department was established in 2008 before the passing of the Human Trafficking Prevention Act. It is almost the only body that works seriously in investigating human trafficking cases. Its only problem is the lack of enough women on its staff. This is a problem because women are essential for interviewing female victims and children.

The Fourth Component: Establishing partnerships and cooperation on the local, regional, and international level; Promoting Transparency.

- The official website of the National Committee for the Prevention of Human Trafficking is still undeveloped. It only includes the slogans of the different bodies of the National Committee, and the text of the National Strategy. It does not include any useful information or raise awareness about the crime of human trafficking or indicators of human trafficking. If we compare this website with the websites of National Committees from other countries that combat human trafficking, we find Jordan's is extremely lacking. For example, the website of the United Arab Emirates includes a substantial amount of guidance and information as well as how to report any case that resembles human trafficking. It also includes information that defines this crime.
- Jordan has just participated in regional workshops that were organized by international organizations within Jordan. We have not noticed any ratification to conventions of memoranda of understanding between two or more countries in the region regarding exchanging information and knowledge with the diplomatic missions inside the kingdom who still need more support and organization to fulfill the intended objectives.
- The following is an example that shows the lack of cooperation between the Committee and the migrant workers' respective countries. This lack of cooperation promotes human trafficking crimes and creates a special environment for this crime. In 2008, the Philippines banned its subjects from working in Jordan as domestic workers, just as Indonesia did in 2010. In spite of this, the Jordanian Ministry of Labor continued issuing approvals and the Ministry of the Interior continued issuing visas. This led to domestic workers being brought to Jordan illegally through a third country. The most significant example of this is the case of thirty-three Indonesian domestic workers who illegally entered Jordan when they were between the ages of thirteen and seventeen years old. They were discovered. Surely there are many others like them. Moreover, there are many workers who have been deceived about both the country and the workplace in which they work. Additionally, no information is available concerning these workers in the embassies due to their entry into the country during the ban. Although the National Committee to Combat Human Trafficking knows about this case, it did not take any practical step to either protect the victims or prosecute the offenders.
- Some governmental practices promote trafficking, such as the 'Police Notification' (report of absconding) that prevents victims from accessing justice. The 'Police Notification' also stops victims from reporting any violations they suffer because if they file a complaint with the police, they will be detained. The long duration of investigation and trial, as well as the absence of recovering programs and the lack of shelter for victims, depress victims and make them easy

prey for the offenders. In turn, this treatment (or lack thereof) makes it easy to convince the victim to give up his or her rights, and allows for the impunity of the offenders.

- Between January 1st, 2011 and June 13th, 2012, Tamkeen Center for Legal Aid and Human Rights received 922 complaints from migrant workers from different nationalities and sectors. These complaints included 747 complaints from domestic workers, 29 individual complaints, 8 group complaints for QIZ workers, and 138 complaints from Egyptian workers.



Recommendations

Included in the reports “Double Alienation” and “The Weakest Link”, published by Tamkeen Center for Legal Aid and Human Rights, was a list of recommendations which Tamkeen put forward based on a review and analysis of the situation of migrant workers in Jordan, but because most of the recommendations suggested were not taken, we decided to include them again with some new recommendations.

These recommendations are addressed to all of the Jordanian government and the governments of sending-sending countries and related international institutions:

1

Require the employer to open a bank account for the migrant worker that is linked to the central bank, and to notify the related authorities in the case that the owner is delayed in filing the worker's salary. The worker has the right to cancel the work contract and move to another employer.

2

Require the establishment of a credit fund for owed wages, fines for residency violations and plane tickets in the case of bankruptcy, insolvency or failure of the employer to pay them. This amount will be considered a debt on the employer, to be collected for the fund in accordance with provisions for the collection of state funds.

3

Require the establishment of appropriate shelters for workers and domestic workers who are victims of human trafficking and other forms of violations, including cases of conflict with the law, and grant them permanent work and residency permits so they can resolve their issues. This shelter should be equipped to receive domestic workers in particular. They should be able to receive rehabilitation in this shelter before they begin their employment.



4

Review the law on the prevention of human trafficking to ensure compliance with international standards and the clarity of terms contained therein, as well as the appropriateness of the stipulated penalties aligned with the gravity of the offense committed. Include text that gives the victim the right to obtain direct compensation from the offender after the issuance of a decision.

5

Provide protection to victims of human trafficking and ensure their access to medical, social, rehabilitative and legal services, with the need for immediate and effective investigation into all allegations of human trafficking, and prosecution of offenders and punishment in accordance with their crime.

6

Train judges, prosecutors, and all law-enforcement personnel on observing the requirements of human rights in their work as well as the activation of planned protection systems for all the groups most vulnerable to abuse.

7

Do not deport any worker except by a judicial decision, and do not resort to forced confinement or administrative detention during the process of deportation/correcting the situation or because of a violation of residency law. Accept the bail of the Embassy Representative for the migrant worker and do not bind him to the Jordanian sponsor, thereby reducing detentions.

8

Comply with provisions of the Labor Law which give a worker's claims urgency and must be decided within a period of three months from the date they were filed.

9

Enact practical legislation criminalizing forced labor under the framework of penal legislation, and build the capacity of judges who specialize in considering the labor claims to define what is considered "forced labor" and develop a mechanism to refer the claims to the appropriate authority.

10

Review all the rules and regulations to be in line with international conventions, abolish all the rules and regulations that lay the foundation of the sponsorship system, and work on issuance of work and residency permits in the name of the worker without connection to the name of the employer so that it is not necessary for the worker to pay a new work permit fee in case of changing employers during the year.

11

Review the amendments to the Labor Law for the year 2008 related to including domestic workers and agricultural workers in this law, and not tie them up in the red-tape and procedures of legislative amendments so that we achieve balance between the rights and obligations of both the worker and employer.

12

Amend the decision on minimum wage to equalize the wage of migrant laborers with that of their Jordanian counterparts, abolish the insurance fee imposed on Egyptian workers, review the terms and conditions of the labor contract to ensure the freedom of signing the contract and the right of the worker to end the employment contract in cases of ill-treatment or a fundamental breach of the labor contract by the employer, and maintain a copy of the work contract in the Ministry of Labor.

13

Provide interpreters in all the directorates that have a direct link to migrant workers, especially courts and places which receive complaints.

14

Activate the role of the inspection system and raise the effectiveness of inspectors in regards to following up on issues and work complaints, both in terms of size of staff and qualifications and methods and digitalization of their work, and finding appropriate mechanisms for regular follow-ups on the conditions of workers, especially domestic workers. Compel the employer to deliver the worker to the labor inspector to ensure she is being treated well and is receiving her legal and contractual rights, the interview for which will be held in private. Improve the performance of the labor inspector department in the directorate of domestic workers and raise the competence of the inspectors.

15

Establish private foundations to employ domestic workers part-time, without requiring them to stay overnight at the employer's home. These foundations will be held accountable legally by the relevant authorities and monitored by Ministry of Labor inspectors.

16

Raise awareness and education among migrant workers about their rights, their obligations and the laws concerning them, including about the crime of human trafficking, the Human Trafficking Prevention Act No. 9 of 2009, their treatment and steps necessary to file a complaint.

17

It is important to monitor the costs that the recruitment agencies impose on the employers. Since the Ministry of Labor only allows recruitment agencies to recruit domestic workers, it is important to find a mechanism that requires recruitment agencies to compensate the employer if the domestic worker refuses to work because of reasons unrelated to the treatment she receives from the employer.

18

Intensify efforts to raise awareness of the need to change social conceptions regarding worker treatment, especially domestic workers, and the need to separate the contractual relationship and the rights of the worker to exercise a normal life as a human being.

19

Strengthen the role of the media in spreading awareness among the general public about workers' rights and the crime of human trafficking.

20

Sending-sending countries must rehabilitate workers and familiarize them with their rights and obligations, adopt reliable recruitment agencies, and have their embassies maintain complete information about their citizens.

21

The Kingdom must hasten to join international conventions on the protection of migrant workers, especially: The United Nations Convention for the Protection of All Migrant Workers and Members of Their Family, and the Convention Concerning Decent Work for Domestic Workers.

22

Work on bilateral and multilateral agreements at national, regional and international levels in order to ensure the smooth exchange of information between the concerned parties on the national level on one hand, and those on the national and regional levels on the other hand, and to ensure the protection of migrant-worker rights and also respect for these agreements by all signatory parties.

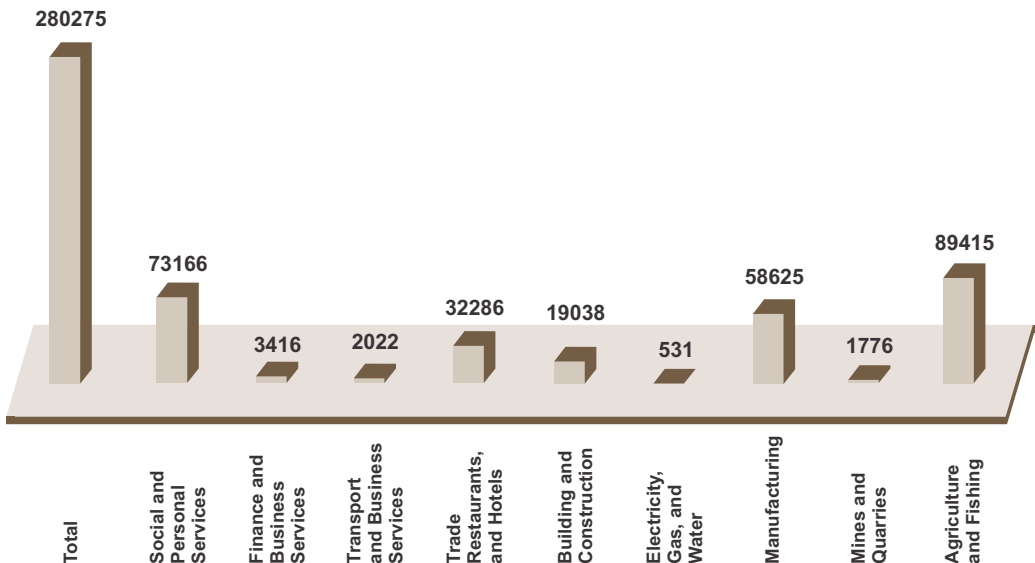
Administrative and Legal Framework of Migrant workers in Jordan



Numbers of Migrant Laborers in Jordan

According to statistics released in 2011 by the Ministry of Labor, 280,275 migrant workers have work permits in Jordan, which is equivalent to 20% of the general workforce. Additionally, there are at least 200,000 migrant workers without work permits, approximately 135,000 of whom are Egyptian. In total, migrant workers in Jordan represent approximately 40% of the general workforce. Migrant workers are distributed across several sectors and throughout different regions of the kingdom. Approximately 40% of the total migrant workers in Jordan live and work in Amman.

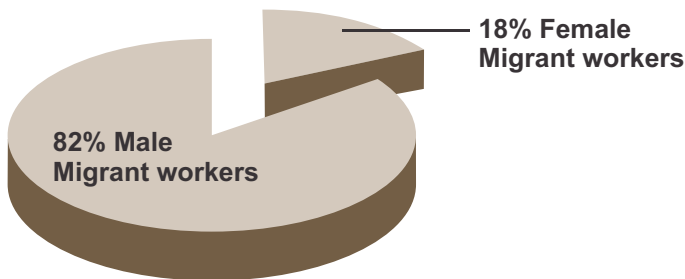
The following chart represents migrant workers who acquired work permits in Jordan in 2011 and the sectors in which they work:



¹ According to the Minister of Labor's statement published in AL-Dustor Newspaper on April 24th, 2011, ed. 15725, the Minister said, "Jordan has 600,000 migrant laborers. 200,000 of them work without work permits."

According to the Ministry of Labor, the total number of male migrant workers in Jordan is 229,312 and total number of female workers is 50,963. The highest percentage of total migrant laborers is Egyptians, and most of the Egyptians in Jordan are male. Regarding other nationalities, most of the migrant laborers are females.

The chart below presents the difference in percentage between male and female migrant workers who have work permits:



The Administrative Framework of Migrant Workers

The Ministry of Labor has the leadership role, so to speak, in organizing the labor market, including the recruitment and employment of migrant workers in Jordan. It plays its role in coordination and direct cooperation with the Public Security Directorate and the Ministry of Interior. On the other hand, other ministries and foundations play supporting roles in the recruitment and employment process, such as Ministry of Foreign Affairs, which issues entrance visas through Jordanian embassies abroad, and the Ministry of Health, which carries out medical examinations for migrant workers coming to the kingdom.

1- The Ministry of Labor

As previously mentioned, the Ministry of Labor has the leadership role in the recruitment and employment of migrant workers in Jordan. It issues the work permits and follows the registration process of the recruitment agencies that recruit and employ non-Jordanian domestic workers. The ministry undertakes these activities through the Directorate of Labor Inspection and the Directorate of Migrant Labor, both of which work directly with and provide services to migrant workers. The ministry also depends on other labor directorates spread throughout the kingdom to help support providing services to migrant workers. The Directorate of Labor Affairs and Inspection participates in organizing the labor market by overseeing the various institutions to ensure the full application of labor law, its regulations and instructions issued by the Ministry of Labor. It also protects migrant worker rights and their earnings, and works on the labor claims that it receives. The Directorate of Migrant Labor has the responsibility for making

policy that ensures organized recruitment and employment of migrant workers. It also coordinates with the sending countries, their embassies, and consulates in the kingdom to regulate the flow of labor to Jordan.

Additionally, there is the Recruitment and Employment Committee that is one of the major elements controlling the recruitment and employment of migrant workers. The Minister of Labor forms the committee, taking into consideration the experience and knowledge of the members, the location of the foundations and the size of their workforce. The committee considers and studies the recruitment applications to make a final decision. It also handles other applications for employment, renewal of work permits, change of workplace or profession, and social security benefits. Moreover, the Ministry of Labor issues instructions, regulations and decisions related to workers and organizes their work. Another task entrusted to the Ministry of Labor is to consider wage complaints through the wages authority.

2- Ministry of Interior

Directorate of Citizenship and Foreigners' Affairs

The Directorate of Citizenship and Foreigners' Affairs is one of the Ministry of Interior's sub-directorates. It plays a major role in regulating the entry and residence of migrant workers in Jordan in direct collaboration with the Public Security Directorate and the Ministry of Labor. The directorate operates under the Residence and Foreigners Affairs Law No. 24 of 1973, in addition to other regulations governing migrant workers in Jordan. In this context, the Directorate of Citizenship and Foreigners' Affairs offers the following services related to nationality issues:

- Issuing permission for annual residencies
- Issuing permission for temporary residencies
- Issuing entry visas to the kingdom

3- The Public Security Directorate

From an administrative point of view, the Public Security Directorate is within the jurisdiction of the Ministry of Interior, but it operates independently. It is governed by the Public Security Act No. 38 of 1965, which defines the tasks of the PSD in Article 4, referred to here:

1. To maintain order and security, and to protect life.
2. To implement laws, regulations and legitimate official orders, and to assist the public authorities in performing their duties in accordance to the law provisions.
3. To carry out other duties imposed by legislation.

These objectives clarify the relationship between the PSD and labor inspectors during the inspection process.

4- The Department of Residency and Borders

The Department of Residency and Borders is one of the PSD's specialized departments concerned with foreign arrivals to and departures from the Hashemite Kingdom of Jordan. It implements regulations pertaining to this matter and oversees the border checkpoints (land, air and sea). It is linked to the Ministry of Interior and its employees are under the same provisions, regulations and instructions as the Public Security Force.

It is governed by the Residence and Foreigners Affairs Act No. 24 of 1973 and also strongly responsible for implementing Labor Law No. 8 of 1996 and the Human Trafficking Prevention Act No. 9 of 2009.¹

The Legal Framework for Migrant Workers Protection

1- Jordan's International Obligations

Due to international conventions and treaties that it has ratified, Jordan is obligated to protect the rights of migrant workers residing within the territory. "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."²

2- The International Conventions of Human Rights

Jordan has adopted many international conventions and instruments over the past several decades in their efforts to strengthen human rights within the country and the region. One of the very first conventions Jordan adopted was the Universal Declaration of Human Rights. It establishes a set of inalienable, fundamental human rights that should be afforded to everyone. These rights include the right to life, liberty and security of person as well as the right to not be subjected to torture or punishment. Everyone has the right to be recognized everywhere as a person before the law. All are equal before the law and are entitled to equal protection against any discrimination in violation of this Declaration. In addition to these fundamental rights, the Declaration also states that everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and have the right to return back to it.

¹ The official website of the Department of Residency and Borders.

² Article (2.1) of the International Covenant on Civil and Political Rights and article (2.2) of the International Covenant on Economic, Social and Cultural Rights.

Jordan then adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Both covenants emphasize the rights stated in the Universal Declaration of Human Rights. Moreover, Jordan adopted the United Nations Convention against Torture, the International Convention on the Elimination of All Forms of Racial Discrimination, the convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women. All the conventions were published in the Official Gazette.

In the field of combating human trafficking, Jordan adopted the United Nations Convention against Transnational Organized Crime in 2000 and the protocols thereto, particularly the protocol that prevents, suppresses, and punishes trafficking in persons, especially women and children.

Jordan did not ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families issued in 1990 and activated on July 1, 2003. By not adopting this Convention, Jordan's legal framework that protects migrant workers is deprived of one of the fundamental resources that would strengthen the implementation of labor legislation that currently exists in Jordan.

The fundamental rights guaranteed to all persons through the aforementioned International Human Rights conventions afford the minimum level of protection for migrant workers. Each state party to these conventions, including Jordan, is obligated to uphold, protect, and provide the rights guaranteed in these conventions; it is not permissible for them to detract from or restrict these rights through either their national legislation or their executive, administrative, or judicial practices. Each state party to these conventions should establish appropriate measures that protect human rights within the private relationships between the governing bodies, companies, and individuals over which they govern. If the state does not fulfill its obligation to uphold these rights, it is responsible to the international community.¹ This responsibility has been confirmed by the High Commissioner of Human Rights in his report about the subject in 2007.²

3- The International Labor Conventions

Jordan is also party to a number of international labor conventions, which include the Conventions on the Freedom of Association and the Effective Recognition of the Rights to Collective Bargaining, the Elimination of All Forms of Forced or Compulsory Labor, Abolition of Child Labor, and the Elimination of Discrimination in Respect to Employment and Occupation. As a member of the International

¹ John H. Knox, Horizontal Human Rights Law, the American Journal of International Law, Vol. 102, No. 1, Jan. 2008, p 29.

² The Office of the United Nations High Commissioner for Human Rights, State Responsibilities to Regulate and Adjudicate Corporate Activities under the United Nations' core Human Rights Treaties, May 2007.

Labor Organization, Jordan is also obligated to their established principles. It also signed 24 international labor conventions, only 14 of which have been published in the Official Gazette.¹

It should be noted that Jordan has not ratified a number of important international labor conventions related to migrant worker protection. Jordan has yet to adopt the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), C129 Labor Inspection (Agriculture) Convention, 1969, the Private Employment Agencies Convention (No. 181), 1997, and Migration for Employment Convention (C97). It also did not adopt the international labor convention C189 concerning Decent Work for Domestic Workers, 2011.

4- National Legislation

There are various pieces of national legislation that organize the recruitment and employment of migrant workers in Jordan. National legislation either deals with this issue directly, such as the Labor Law, regulations, and instructions issued hereunder, or addresses the migrant workers issue indirectly, such as the Law of Residence and Foreigners' Affairs and the Law on the Prevention and Combat of Trafficking in Human Beings.

We have already discussed the aforementioned pieces of legislation in our previous publications, studies and reports. In this report we will highlight the distinctive features of the Jordanian legislative framework that specifically focuses on the issue of migrant workers coming to Jordan. This report will provide a brief legal analysis of the relevant legislations which will show that there are gaps within the existing legislation caused either by ignorance on the part of the author, or ambiguous and unorganized legal framework and language. These gaps are often used to exploit migrant workers.

5- Jordanian Labor Law No. 8, 1996

The Labor Law includes a set of legal rules governing work relationships, specifically the interactions between the employer and employee. The law defines “work” as the effort exerted by the employee to receive wages under the supervision and guidance of the employer. Primarily, the law seeks to create balance in the relationship between the employer and the employee through peremptory rules.

¹ Which are: Forced Labor Convention (C29), 1930; Convention Concerning Labor Inspection in Industry and Commerce (C81) 1947; Equal Remuneration for Men and Women Workers for Work of Equal Value (C100), 1951; Discrimination (Employment and Occupation) Convention (C111), 1958; Convention (C116) concerns the partial revision of the conventions drafted by the General Conference in its previous sessions on the unification of the law relating to the board of directors' report about the progress of the conventions, 1961; The Equality of Treatment (Social Security) Convention, (C118), 1962; Guarding of Machinery Convention (C119), 1963; Hygiene (Commerce and Offices) Convention, (C120), 1963; Employment Policy Convention, (C122), 1964; Convention Concerning the Minimum Age for Admission to Employment Underground in Mines, (C123) of 1965; Medical Examination of Young Persons (Underground Work) Convention (C124), 1965; Minimum Age for Admission to Employment Convention (C138), 1973.

Labor Law states that it is not permissible to recruit any non-Jordanian employee without with the approval of the Minister of Labor or a proxy delegated by him. In order to gain the approval of the Minister of Labor to recruit non-Jordanian employees, the work to be performed must require experience and capability that is not available in Jordanian employees, or that the available number of Jordanian employees does not meet the need of the employer. The non-Jordanian employee must obtain a work permit from the Minister of Labor or from his delegate prior to recruitment. The period of permit may not exceed one year, but is subject to renewal.

The employer or the manager of the establishment, depending on the case, will be fined a minimum of 200JD and not more than 500JD for every non-Jordanian employee employed in violation of the Labor Law provisions. The fine will be doubled for repeated offenses. The fine may not be reduced below the minimum amount in any case or for any reason.

The Minister issues a decision of deporting the non-Jordanian employee in violation of Article 12 of the Jordanian Labor Law in any of the following cases: employed without a work permit, employed by an employer who does not have a permit from the Ministry, or employed in a closed career. The employee will be deported to outside the Kingdom at the expense of the employer or establishment's manager. This deported non-Jordanian employee is not permitted to return to Jordan until three years have passed from the date of deportation.¹

Article 12.C1 of the Labor Law states that the Ministry of Labor shall charge the employer a fee for the issuance or renewal of the work permit for every non-Jordanian. The amount of the fee is defined by the legislation and sent to the treasury of the Kingdom.²

6- The Minimum Wages

By the end of 2011, the Ministry of Labor had committed clear violations of many international conventions and treaties regarding the minimum wage. The minimum wage committee that was established by Article No. 52 of the Labor Law on December 24, 2011, raised the national minimum wage to be 190JD.³ However, this law excluded migrant workers and kept their minimum wage at the

¹ Article 12 of the Jordanian Labor Law.

² Article 12 of the Jordanian Labor Law.

³ Article 52 of the law states that "(a) The Council of Ministers shall, upon the recommendation of the Minister, form a Committee comprising an equivalent number of Representatives from the Ministry, Employees and Employers. The Council shall appoint a Chairman thereto from amongst its members to undertake the fixing of the minimum wages estimated in Jordanian currency in general or with respect to a certain area or to a certain profession. The period of membership thereon shall be two years, renewable; and (b) The Committee shall hold its meetings whenever necessary upon the invitation of its chairman. It shall submit its resolutions to the Minister if they are not unanimous in order to transmit them to the Council of Ministers that will make the decision, taking into consideration the cost of living established by the competent authorities. The resolutions issued pursuant to this article shall be published in the official gazette including the date of commencement of its operation."

previous wage of 150JD, with an exception for garment-industry sectors, domestic work and gardening. The minimum wage of these sectors remained at 110JD. These exceptions within the Labor Law are a serious setback for labor rights. This decision violates C111 Discrimination (Employment and Occupation) Convention, 1958, which was ratified by Jordan in 1963 and published in the official Gazette on May 30th 1963. It also violates Article 2(b) and 7(a) of the International Covenant on Economic, Social, and Cultural Rights, as well as Article 2(a) of the International Covenant on Civil and Political Rights, which was published in the official Gazette on June 15th, 2006. By having the minimum wage differ depending on the sector and nationality of the worker is also a violation of Article (5) of the bilateral agreement between Jordan and Egypt concerning cooperation in the workforce, signed on January 31st, 1985.

7- Instructions about the Entrance and Exit of Egyptian Workers, their Vacation Periods, and Clearance to Permanently Leave the Country

At the beginning of 2012, the Ministry of Labor issued new instructions that organize the entrance, exit, vacations, and repatriations of Egyptian migrant workers who have work permits in the Kingdom. The entrance and exit system that the Ministry began to implement on April 1st, 2012, allows the migrant worker who works in sectors other than the agriculture sector to have a sixty day vacation period; those working in the agriculture sector receive a ninety day vacation period. Migrant workers are allowed to leave for this allotted vacation period on several conditions. They must gain the permission and approval of the employer to leave the country, and visit their related labor directorate to sign the aforementioned clearance from their employer. The workers will then receive a special stamp in their passports that allows them to leave the country. The workers are allowed to return to Jordan through the period of the vacation on condition that he has a valid work permit until the return date. However, any worker who exceeds the allocated vacation period will not be allowed to enter Jordan.

These instructions also require that the worker obtain a final 'clearance' or 'disclaimer' signed by the employer and stamped by the related labor directorate even if the worker is leaving the country permanently, and not just for a vacation. If the worker is found crossing the border without this 'clearance' or 'disclaimer,' he will not be allowed to leave the country.

These instructions are the first step down a slippery slope for the exploitation of workers by their employers. These instructions likewise enhance the practice of forced labor. They allow the employers to extort their workers by asking for huge amounts of money from the worker to sign this 'clearance' to leave the country. These instructions also promote the concept of the sponsorship system in Jordan. When these instructions were issued, huge numbers of workers accumulated on the borders because they were unable to obtain the previously

mentioned clearance from their employers. Because these instructions deprive many workers from returning to their countries, it breaches Article 12, section 2 of the International Covenant on Civil and Political Rights.¹

8- C24 Law on Residency and Foreigners' Affairs, 1979

The Law on Residency and Foreigners' Affairs is the main point of reference for foreigners' affairs regarding residency, deportation, and type of punishment for violating its provisions. There are several important provisions that are stated below:

Article 16 states that no Jordanian national or Jordanian company or body shall employ a foreigner unless he has a permit to reside in the Kingdom. This requirement shall not apply to experts called for a practical or technical purpose, provided that their period of engagement does not exceed three months. Article 18 states that any foreigner staying or wishing to stay in the country must obtain a residence permit in accordance with the provisions of this Law and shall leave the territory of the Kingdom on expiration of his residence permit unless it is renewed. Article 19 says that the Minister of Interior may, after consulting the Director of the PSD, either grant or refuse a foreigner's application for a residence permit or cancel a residence permit already granted to him and order him to leave the Kingdom without explanation. The decision in this case is based on the presumption of authenticity. It is not possible to investigate the reason in the administrative decision.²

The law requires the foreigner who overstays his permitted period of residence to pay a fine of 1.5JD for every single day he overstays. The Minister of Interior may exempt a foreigner from these fines provided that they do not exceed 250JD. When the amount exceeds 250JD, such exemptions shall be subject to an order of the Council of Ministers based on a proposal by the Minister of Interior.³

It is important to note that the foreigner who overstays his permitted period of residence is not allowed to leave the country unless he pays his accumulated fine or obtains an exemption from the Minister or the Council of Ministers.

According to Jordanian Labor Law, it is the Jordanian employer's responsibility to issue the work and residence permit to the migrant worker. Even though the employer should be held responsible if he neglects his responsibilities to issue the work and residence permit to the migrant workers, in reality, it is the migrant worker who must pay the fine, and he is the one who is subject to detainment for violating the Law on Residence and Foreigners' Affairs. Since the law states that

¹ Article 12, section 2 of the International Covenant on Civil and Political Rights states, "Everyone shall be free to leave any country, including his own."

² The Higher Court Decision No. 22/2008, issued on March 12th, 2008 & The Higher Court Decision No. 25/1988, issued on June 29th, 1988.

³ C34 Law on Residence and Foreigners' Affairs.

obtaining permits is the employer's responsibility, he should be the one punished for the violation. Thus, the law is punishing workers for neglecting the responsibility that should have been carried out by the employer.

Undocumented migrant workers who violate residence law are often arrested. The period of detention might be prolonged due to inability to pay the accumulated fines. According to public security officers, one night accommodation in the detention center costs the Jordanian Government 22JD. It means the government loses 20.5JD for each night one migrant worker is detained.¹

9- Human Trafficking Prevention Act No. 9, 2009

Jordanian law has adopted, with minor changes, the definition of Human Trafficking as defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons. It addresses regulatory matters in detail, at the expense of focusing on the rights of trafficking victims, or even confirming the existence of rights for those victims, who are most of the times migrant workers. It makes their rights merely words without any legal basis to ensure them or guarantee them to the victims. In another chapter we will discuss and analyze the national strategy to combat human trafficking and we will detail everything related to human trafficking in Jordan.



¹ Claire Escoffier, Pierre Tainturier, Ayman Halasa, Naima Baba and Chadi Sidhom, Economic and Social Rights of Migrants and Refugees in the Euro-Med Region, Case Studies: France, Jordan and Morocco, Euro-Mediterranean Human Rights Network (EMHRN), Copenhagen, December 2008, p 66.

Domestic Workers



Even though there are many reports and studies that address the issue of domestic workers in both Jordan and other countries; even though Jordan receives intense criticism regarding its treatment of domestic workers; even though there are many attempts to accelerate the process of passing legislation that aims to protect this category, domestic workers are still exposed to a wide range of rights violations. Means of equity are still weak and inefficient. Although the whole Labor Law issued in 2008 is supposed to apply to domestic workers, many judges are confused as to whether they should apply the whole Labor Law to domestic workers, or just the specific regulation within the Labor Law that discusses domestic workers. This confusion leads some judges to give domestic workers access to the whole Labor Law and, at the same time, other judges to limit domestic workers' access to this specific regulation. This inconsistent application of the Labor Law makes it so that domestic workers are sometimes denied general rights defined by the Labor Law such as overtime payment and receiving official and religious holidays. Not providing domestic workers these rights is a clear violation to the Labor Law. Moreover, domestic workers also do not enjoy the rights stated in universal declarations and treaties that are ratified by Jordan.

Numbers of Domestic Workers

In 2011, 43593 domestic workers in Jordan had work permits, with most of these workers being women. There are 43258 female domestic workers in Jordan, while there are only 335 male domestic workers. These numbers exclude undocumented domestic workers.

The following chart represents the numbers and nationalities of the domestic workers with work permits in 2011:



Regulation No. 90/2009 of domestic workers, cooks, gardeners, and other workers who fall within that sector

This regulation describes in depth the process of recruiting and organizing migrant domestic workers. Employers are obligated to sign four copies of the contract written in two languages; Arabic and a language the domestic worker understands. The worker and employer should both keep a copy of the contract. It is important to mention here that many domestic workers report having signed contracts in their home countries but did not receive a copy of it later and others report having never signed any contract. Additionally, the regulation defines a number of commitments to be carried out by the employer, such as issuing residence and work permits, paying the monthly salary, letting the domestic worker work in his place of accommodation, providing medical care, and other rights guaranteed to the domestic worker. The regulation outlines responsibilities for the domestic worker as well. Any violation of this regulation gives the ministry the right to summon both parties to consider the infraction. In case the investigation proves that the employer violated the Labor Law, he/she receives a one-week warning to settle it; otherwise legal action will be taken against him/her.

The procedure of giving the employer a one-week warning usually deprives the domestic worker of his/her rights. It is difficult for the worker to prove when a violation has been committed, such as being forced to work for more than 10 hours. It takes time to prove the violation, and sometimes it is impossible. Moreover, the one-week notice does not correspond with the nature of violation. Therefore, it would be more effective to resort to the provisions established by the labor law when any violation takes place.

It is worth mentioning here that the Ministry of Labor amended this legislation on September 13th, 2011; it replaced a provision requiring the domestic worker to obtain approval from the employer before leaving the house with a provision requiring the worker to inform the employer before leaving the house.

Committee of Domestic Workers' Affairs

During the meeting conducted with the director of the Domestic Workers Directorate, Dr. Afi Al Jbour, we asked about the types of complaints received by the directorate. In passing, Dr. Jbour mentioned a complaint filed by a female employer, who asked to deport her domestic worker because she found out that, during the worker's four years of service, the worker married the employer's husband.¹ The Domestic Workers Directorate summoned the employer's husband and asked him to divorce the domestic worker, and then deported the domestic worker². The nature of the complaint and the procedures followed to

¹ According to Islamic Sharia, which is followed by the Jordanian legal system, a man is allowed to marry up to four wives.

² Tamkeen's Interview with Dr. Afi Al Jbour, February 24th, 2012.

resolve it beg the question of whether or not the directorate has fulfilled its mission in labor conflict resolution, and whether managing marriage conflict resolution falls within the scope of its defined powers.

The Labor Conflict Resolution Committee is a committee formed by the Ministry of Labor to resolve conflicts related to the employment of domestic workers. Its members are representatives from the Ministry of Labor, Ministry of Interior, and Borders and Residence Directorate (PSD). Representatives of Recruitment Agencies, related embassies, and other bodies related to the matter also participate in the committee by defining its power and duties.¹

However, there are no established articles that define the Committee's rule, powers, and duties, nor is there any legal statement that discusses its nature. This committee has no legal base that organizes its working mechanisms, making any effort exerted by the committee wasted. The lack of an organized legal structure to this committee leads us to ask whether this structure is effective, and whether the committee has achieved, or even defined, its unknown objectives. Has this committee played the role it was supposed to play, even though this role is unknown?

According to the information provided by Domestic Workers Directorate, March 15th, 2012, the committee is mostly concerned about the complaints of domestic workers who seek refuge with their embassies. The information released by the Directorate also states that sub-committees have emerged from the main committee. These sub-committees visit the embassies on a daily basis. In 2011, these sub-committees received and reviewed 100 complaints from domestic workers who sought refuge with embassies. The sub committees were able to resolve most of the cases. 500 domestic workers benefited from amnesty, so they did not pay their accumulated overstay fines. \$100,000 was collected for the domestic workers who were deprived of their salaries. Furthermore, the status of 300 domestic workers has been corrected, enabling them to work for another employer. Additionally, air tickets for more than 100 domestic workers were obtained.

These achievements look quite good. However, when considering the workers who received amnesty, we have to keep in mind that the domestic workers are not actually the ones who benefit from the amnesty, but the employer who did not fulfill his/her duties by issuing work permits and residency to the worker. Because domestic workers cannot issue work permits and residency to himself/herself, he/she should not have the responsibility of paying overstay fines. In reality, domestic workers did not benefit from the amnesty. Instead, they were deported,

¹ Article 9.a of the Regulation & Article 11 of the Instructions about the Conditions and Procedures for Registering Private Agencies that recruit and employ non- Jordanian domestic workers, 2009.

which is a new, official violation to their rights.

On January 24th, 2011, 37 Sri Lankan domestic workers sought refuge with Tamkeen Center for Legal Aid and Human Rights. All of them have completed a contracting period ranging between 2-14 years. They were victims for different types of violations, including unpaid salaries, and accumulated overstay fines. Although the Labor Conflict Resolution Committee interviewed these same workers, it did not make any efforts to resolve their problems.

The Inspection Department in the Directorate of Domestic Workers

According to a formal letter received from the Ministry of Labor on March 15th, 2012, the Inspection Department conducted five field inspections to various houses. It also updated the application form for a domestic worker to transfer from one "sponsor" to another. Now the domestic worker must be asked personally by a responsible official in the directorate if she has received all her dues and if she accepts to be moved into another sponsor's employment. The department received 1,875 complaints, 1,809 out of which were solved. 15 complaints were lodged in the court, due to the nature of the complainer's request. The complaints were mainly about:

- The domestic workers "running away" to their embassies, or to unknown destinations
- Recruiting a domestic worker infected by a contagious disease
- The unwillingness of the employer or the domestic worker to complete the contract period, which increases the number of "relinquishments".
- Delayed or unpaid salary
- The recruitment agency delaying or not supplying domestic workers, or lacking a financial settlement between the employer and the recruitment agency
- The recruitment agency not correcting the legal status of the domestic worker

We see from the aforementioned cases and resolved complaints that domestic workers generally receive fair treatment. However, when we examine the issue more closely, we must ask whether the domestic worker is present when the work-permit is issued for the first time, and whether translators are always present for personal interviews with the workers. The issue of whether the domestic worker is represented in the issuance of the permit has been a major problem. Especially up until 2011, the contract was prepared by one of the street services providers who stay close to the Directorate building, without the presence of the domestic worker.

During our interview on February 24th, 2012 with Dr. Afi Al Jbour, several employers of Domestic workers and representatives from recruitment agencies interrupted the interview. Tamkeen noticed that these employers or the people the employers authorized from the recruitment agency wanted the work-permits to be issued without the worker being present. When we asked about the contracts that the employers had with them, they replied that they had purchased them from independent providers on the street near the Directorate. The street providers had even filled in the contracts. Dr. Al Jbour immediately stated that the contracts should not be issued without the workers being present.

Most types of complaints received by the Directorate focused on the employers' rights that were violated by the recruitment agency. There were no complaints from the domestic worker against the recruitment agency mentioned.

Three terms mentioned in the formal letter need to be highlighted. The first term is "running away," which refers to the place of work as a form of detention. The second term is "relinquishments" which means to transfer the worker from one employer to another. The implication of using the term "to relinquish" is that the domestic worker is the property of the employer. The third term is "sponsor," although it is often said the sponsorship system is not applicable in Jordan. The use of these terms is enough to prove that current status of domestic worker is very similar to slavery.

Violation to Domestic Workers Rights (A State of Continuous Suffering)

Suffering has become a permanent part of domestic workers' daily life in Jordan. Jordanian legislation that addresses the state of migrant workers, including female migrant workers, contains a set of provisions that allow the mistreatment of the domestic workers by creating an environment that fosters the exploitation and trafficking of workers and allows employers and recruitment agencies to mistreat domestic workers.

In addition to the existing Jordanian legislation, prevailing practices in the public and private sectors work against domestic workers. These practices subject the domestic workers to exploitation and oppression, ultimately placing the domestic worker under the control and the will of the employer. In addition to being exposed to forced labor and trafficking, the workers are also subjected to economic, and sometimes sexual, exploitation by the employer. On top of these hardships, domestic workers remain under suspicion from the local authorities, continuously subjected to arbitrary illegal detention, often for long periods of time.

In 2011 and the first half of 2012 Tamkeen Center for Legal Aid and Human Rights received hundreds of these cases for domestic workers who were subjected to forced labor, trafficking, and economic exploitation. The following is a brief overview of various complaints received by Tamkeen throughout this last year.

Arbitrary Confinement in the Place of Work

Ranjani, a Sri Lankan domestic worker, told us that she “felt like a prisoner... I could not leave the house alone... I am mature, I’m not a child... I did not commit a crime to be imprisoned without a trial.”

Many domestic workers stated that their employers did not allow them to go outside the house. Others were not allowed to leave the house unless accompanied by the family, to purchase goods that the family needed, or to throw out the garbage. Restricting domestic workers’ movements hinders the domestic workers’ access to means of justice. Moreover, it violates the rights guaranteed to migrant workers in the national legislations and international conventions that have been adopted by Jordan. Despite the fact that there is no provision that obligates the domestic worker to stay home day and night, many employers are used to having the domestic worker under his/her service for 24 hours; this expectation of the domestic worker to be on hand to perform any type of work at any time of the day is the root of employers subjecting domestic workers to arbitrary confinement. The Jordanian legal system criminalized forced confinement. In addition, Article 12 of the International Covenant on Civil and Political Rights guarantees the migrant worker freedom of movement and the choice of residence.

However, many law enforcers, people working on rights protection, employers, and other members in society all agree on the idea of not allowing the domestic worker to leave the house alone. Illogical and unacceptable justifications are used to justify this restriction of the domestic worker’s movement, such as confining her for her protection and preventing her from returning to the house pregnant.

Jordanian law criminalizes forced confinement.¹ The International Covenant on Civil and Political Rights guarantees the right to liberty, freedom of movement and choice of residence.²

Confiscation of Personal Documents

In one of Tamkeen’s interviews, an employer accused the domestic worker of stealing her own passport, saying, "The domestic worker ran away from my house and stole her passport!"

¹ C346 of the Penal Code

² C9 & C12 of the International Covenant on Civil and Political Rights

An employer's confiscation of a migrant worker's passport is a common problem faced by migrant workers. Most of the migrant workers, including domestic workers, suffer from this violation. Many employers think that taking the worker's passport is the only way to keep the worker. When the worker decides to stop working for the employer for whatever reason and asks for her passport back, the employer and recruitment agencies often demand that the worker pay high amounts of money for the passport. In addition to suffering from the confiscation of their passports, domestic workers sometimes have all of their official papers and documents withheld from them by their employer. These official papers include marriage contracts, educational certificates, and personal and family photos. This confiscation of official papers is a clear violation of Article 18 of the Passport Act No. 3 of 2002. It also violates Article 222 of the Jordanian Penal Code. It also violates Article 12.4 of the International Covenant on Civil and Political Rights. The confiscation of his/her passport hinders the domestic worker's repatriation and paralyzes the domestic worker's movement. It is not possible for the worker to move without having his/her personal documents. The lack of their personal documentation likewise makes it hard for the domestic worker to seek justice in courts.

Out of the 757 domestic workers cases received and pursued by Tamkeen Center in 2011, 530 workers had their passports confiscated by employers and recruitment agencies. Some of them received their passports after paying a certain amount of money to the employer and the recruitment agency. In June 2011, Jordan granted general amnesty to all migrant workers who accumulated overstay fines. The domestic workers who were granted amnesty did not have to pay their overstay fines, and were able repatriate easily. Many of the workers who approached Tamkeen this last year qualified for this general amnesty, but were unable to take advantage of it because their passports had been confiscated. This made it impossible for them to repatriate.

Verbal, Physical and Sexual Abuse

Nenita, a Filipina domestic worker, said "the more gentle we treat them, the harsher their hearts become."

Psychological violence is the most common violation to which domestic workers are subjected. They face poor treatment as well as various kinds of intimidation, violence humiliation, insults, being yelled at, and inappropriate living conditions. This poor treatment amounts to slavery like conditions for the worker. A worker in any other sector would deem verbal abuse unacceptable. Employers do not hesitate to shamelessly use obscene words with the domestic workers. This attitude comes as a direct result of the employer's sense that he or she owns the worker. Generally, formal and informal social practices reinforce the concept of ownership.

If a worker claims that she/he experiences physical or sexual abuse, she/he is required to provide proof of the abuse, such as medical reports. However, it is often difficult for a worker to provide this evidence given that he/she resides permanently in the house and can rarely go out. In addition, domestic inspections require the employer's approval. Furthermore, these types of violations are usually committed by family members, making it hard to find witnesses to prove the violation.

There is a serious need to create mechanisms that detect these violations. Tamkeen recommends that the domestic worker be required to make a monthly or periodical visit to the Inspection Directorate in The Ministry of Labor. In the visits, the domestic worker must be interviewed by the Ministry staff, particularly female labor inspectors, to discuss the nature of the work performed by the domestic worker, including working hours and any violations she may be subjected to. The visits can also be used to educate the domestic workers and raise their awareness about the new legal and administrative updates. It would also be a good opportunity to check the validity of the work permit and other identification documents and the domestic workers' information for the database system. Ultimately, these visits would provide a solid background to ensure that the employer fulfills his/her obligations to the worker, especially if the employer receives serious legal consequences and fines if the domestic worker does not attend an interview. These visits would likewise provide safety and peace of mind for the domestic worker because she would have someone who she can trust, and is looking after her and has the power to protect her best interests.

Priya

said, "she (her employer) burned me with the iron, because I don't know how to iron."



Nirosha ... a Sri Lankan domestic worker

said, "I could never understand the employer's complicated character or her son who is 40 years old. She treated me in an inhuman way. I used to feel like an animal or an emotionless tool. The way her son used to treat me was horrible. No night would pass without him trying to molest me."



Elsie, a Filipina domestic worker

said, "Papa took the advantage of his wife's travelling... he tried to rape me many times, and his son tried to do the same."



Dourini, an Indonesian domestic worker

said "The employer tried to rape me ... if his son had not shown up, he would have done it."



Lack of Medical Care

In 2011, the number of death cases among Sri Lankan domestic workers was nineteen cases, with six of these cases being suicide. The number of death cases among Indonesian workers was twenty-two. There were sixty-eight cases of workers being injured while on the job.

Although Domestic Workers Regulation No. 90/2009, Article 4g, states that providing domestic workers with medical care is one of the employer's commitments, there is no clear list of the medical-care rights which domestic worker should enjoy. Is it just primary care or does it refer to medication in hospitals? Despite the fact that each domestic worker has insurance against accidents and death, failure to renew the work permit deprives the domestic worker of this insurance.

Many domestic workers are deprived of medical care. Some employers do not take this issue seriously. For example, the employer might give the domestic worker painkillers. Others might bring them to the hospital, but leave them to struggle with their ailments on their own. The employers ignore the occupational safety instructions. Many domestic workers have fallen while they were cleaning high balconies. We often see domestic workers hanging over high windows and balconies for cleaning without any means of protection; they fall down and die, or suffer from serious fractures which leave them disabled for the rest of their lives.

Sujeewani, a Sri Lankan domestic worker

said, "Mama forced me to use chemical cleaning materials... My hands were inflamed ... She refused to medicate me... or even to give me money to purchase medicine or go to a doctor."



Priya, an Indonesian domestic worker

said "The employer asked me to clean the house and then the windows. While I was cleaning the windows I fell down from the third floor and broke my back."



Deprivation of Food and Privacy

Domestic workers lack privacy. Most of the time, they do not even have a bedroom. They sleep in the hall or the kitchen. Some domestic workers suffer from food deprivation, in terms of quantity and quality, even though Article 4.d of the Domestic Workers Regulation states that domestic workers must be provided with basic necessities, including clothes, food, drink, and the right to privacy.

Anisa, an Indonesian domestic worker

said, "I could not bear it... I used to sleep in the kitchen on a very thin mattress on the floor... no door to be closed on me ... when anybody enters the kitchen... I am under their feet...Mama is a flight stewardess ... when she used to travel... there was no food in the house except bread... I used to live on bread."



Partial or Total Withholding of Salaries

Sudhrshani, another worker who filed a complaint with Tamkeen, asked, "if they cannot pay our salaries, why do they recruit us?"

One of the most common violations domestic workers are exposed to in Jordan is the partial or total withholding of salaries. This is against the Labor Law, which prohibits the employer from withholding any part of the wage, and requires the employer to pay the wage no later than 7 days after its due date.¹ It is understandable that domestic workers leave their countries and families seeking livelihood. They bear many difficulties, including cruel and degrading treatment, to fulfill this purpose. Yet, some employers do not pay wages, either partially or fully. In addition, there are complaints filed by domestic workers indicating they did not receive their salaries for many years. A number of employers withhold monthly salaries intentionally, to guarantee that the worker will continue working for them, or as compensation for the amount of money they paid to recruit the worker. Although the Minister of Labor issued a decision in July 2012 that requires the employer to open a bank account for the domestic worker before obtaining a work permit, there are no guarantees to keep this account open or ensure the employer's commitment to it. Tamkeen received many cases of domestic workers recruited after this decision who say that their employers were not committed to keeping this account open. In an interview Tamkeen conducted with Mr. Ibraheem Al Saket, an Inspector for the Ministry of Labor, he was asked about how committed employers are to honoring this regulation. Mr. Al Saket responded that the Ministry would know after one year.² How many domestic workers will leave their employment after not receiving their salaries for an entire year?

¹ Article 46 of Labor Law

² Tamkeen's interview with Mr. Ibraheem Al Saket, an Inspector in the Directorate of Domestic Workers, January 18th, 2012

Margarita, a Filipina domestic worker

asked Tamkeen "Is it possible to work for two and a half year without salary? Why did I leave my family and my homeland for this?"



Kosinea, an Indonesian domestic worker

said, "I worked for 4 years and a half. I received salaries for only one and a half years."



Out of 757 domestic worker cases filed with Tamkeen, 465 were about total or partial salary withholding.

Long Working Hours and Deprivation of the Weekly Day Off

In Tamkeen's interview with Dr. Afi Al Jbour, director of Domestic Workers Directorate, he stated that, "I am against the idea of giving the domestic worker a weekly day off. The culture of the Jordanian society does not allow the worker to go to a place that the employer does not know."¹

Employers think that the domestic worker should be under their service all day long, day and night. Still, domestic workers work for long hours that may exceed 16 hours per day. The employer might even make the domestic worker work for his/her relatives, regardless of whether the worker consents to the extra work and has the will and stamina to complete it. Since there are no available means to check or inspect the condition of domestic workers, some employers push their worker to her limits, creating a relationship similar to that of a master and slave; the employer always orders and the domestic worker always obeys.

The Domestic Workers Regulation states that the daily working hours for domestic workers should not exceed 10 hours. It contradicts the existing Labor Law that states that the daily working hours should not exceed 8 hours. The regulation is criticized for not considering the hours the domestic worker does not work, but spends "on call" waiting for the employers' orders. This essentially gives the employer the power to decide the time the domestic worker works and change it the way he/she wants. Even though the Domestic Workers Regulation 90/2009 states that the domestic worker has a right to a weekly day off agreed on with the employer, many domestic workers are deprived of their weekly day off.

¹ Tamkeen's Interview with Dr. Afi Al Jbour, February 24th, 2012

Nirosha, a Sri Lankan domestic worker

said, "I am not a machine. I am a human. I have a certain capacity. I cannot work all this time... The Madam forced me to wake up at 5 am... I had to work all day long... At night there are many guests, and I had to serve them... each family member takes his/her dinner separately, during different times and I had to serve them... Do I not have the right to take a rest?"



Aytem, an Indonesian domestic worker

said "I had no break to take a rest... in the morning the house work... and at night to take care of the children."



Dinusha

another worker who filed a complaint with Tamkeen, said, "The family I served does not understand the meaning of the word human... They thought I am a robot woman who never feels tired... They wanted me to work all day long and for very long hours... I work part time now for a very kind Madam who pays me regularly."



Jawa

another worker who approached Tamkeen for help, said "Mama used to take me to work in the houses of her six daughters without paying me for it. I endured it all because I came to Jordan to earn money to feed my children."



Repatriation "A Dream Can Hardly Come True"

Many migrant workers seek refuge in their embassies for help or to run away from the terrible violations they are subjected to. The number of domestic workers who turned to the Sri Lankan embassy in 2011 was around 1,870. The number of domestic workers who turned to the Indonesian embassy was around 974 workers. Each worker sought repatriation. Some of them were subjected to violations by their employers. Others could not bear the working conditions, and refused to continue. Other domestic workers left their working places after finishing the contract period, but they accumulated overstay fines since their

ex-employers did not issue work and residence permits for them. In practice, it is clear that it is the Jordanian employer's responsibility to issue the work and residence permit to the migrant worker; if the employer does not fulfill his/her commitment, the accumulated overstay fine will be on the migrant worker. The worker will be the punished one and may be detained for violating the provisions of Residence and Foreigners' Affairs Law. The worker may also not be allowed to leave the country unless he/she pays the fine.

The major obstacles that stop the domestic worker from returning back home are the unavailability of air tickets, the accumulated overstay fine, and the Police Notification "Absconding Report" which is filed by the employer. The Domestic Workers Regulation states that the employer should provide the worker with a return air ticket for the worker after two years of employment; however, the Domestic Workers Regulation does not mention anything about the cases when the workers work for more than one employer over two years.

Case worthy of Consideration

On January 24th, 2011, 37 Sri Lankan workers turned to Tamkeen Center for Legal Aid and Human Rights. They left the embassy's shelter after staying there for a period ranging from two months to two years. They came to Tamkeen seeking assistance to solve their problems. They were in terrible condition after coming from the embassy on foot in bitterly cold weather. After meeting with the workers, we found that their first request was to return back to their country after spending time ranging from 2 to 14 years in Jordan. We also discovered that they were subjected to a number of violations, such as unpaid salaries for a period ranging from 5 months to 12 years. Their employers and the recruitment agencies had confiscated all of their passports.

Tamkeen Center encountered many difficulties seeking solutions to the workers' problems. The first was the lack of shelter to host the seventy-three workers. Tamkeen has no shelter to host the workers while solving their problems.

The workers were housed in two apartments. Jordan Women's Union offered them food for one month. Caritas provided them with medication and health care. Tamkeen's legal team followed up each worker's case separately. While working on their complaints, it was found that the workers had to pay overstay fines that had accumulated over many years. Their employers had not fulfilled their legal commitment to issue work and residency permits. Though the employer caused the problem, the workers paid for it.

The official response was insufficient despite the continuous adjuration and calls for help. The workers had been staying in their place without solving their problems for many months. Later on, a decision of deportation covering 11 of them was issued, so their overstay fine was canceled.

The rest of the workers stayed. Tamkeen represented them in front of the court in a number of rights and penal cases, including claiming labor rights and passports, and trafficking in persons. Tamkeen also carried out mediation between domestic workers, and the employers and recruitment agencies in order to let workers receive their salaries, passports and air tickets, in addition to having the overstay fine covered.

The domestic workers were accompanied to the Directorate of Domestic Workers. They were interviewed by the Labor Conflict Resolution Committee in the Directorate. After three months of sending formal letters and calls for help, on April 11th, 2011, two members of the committee visited Tamkeen Center to solve the problems of the workers. They interviewed the workers for a second time, and the domestic workers' file was referred to the Directorate of Borders and Residence.

The Royal Decree issued a general amnesty, and the accumulated overstay fine was cancelled. After persistent follow up of their cases, the domestic workers were finally able to return back to their home country. They met their families after spending years of suffering and negligence, forever affected by the negative experiences they had in Jordan.

Recruitment and Employment Agencies

Recruitment and employment agencies' work is governed by the Regulation of Organizing Private Agencies Working on the Recruitment and Employment of Non-Jordanian Domestic Workers No. 89/2009. It is issued in accordance with paragraphs b and c of Article 10 of the Labor Law No. 8/1996.

Recruitment and employment agencies play a distinctive role in the issue of domestic workers. The Ministry of Labor restricted the recruitment and employment of domestic workers to the recruitment agencies, in accordance with Article 9a of Instructions on Conditions and Procedures for Registering Private Agencies Working in Recruiting and Employing Non-Jordanian Domestic Workers, 2009.¹

There are 130 recruitment and employment agencies in the kingdom. This huge

¹ Article 9.a of the Instructions states, "It is not allowed to recruit and employ non- Jordanian domestic workers except through agencies licensed for this purpose."

There are 130 recruitment and employment agencies in the kingdom. This huge number led to high competition between the agencies, which were at the expense of workers' rights.

Most of the recruitment and employment agencies treat the domestic workers as a commodity, subjected to loss or profit logic. Unfortunately, the terms used among recruitment agencies refer to domestic workers as "goods", and sometimes "defective goods", "returned goods" or "warrantied" as if they are dealing with commodities.

The negative practices of recruitment agencies start in the sending countries where they deceive the domestic workers about the type of work and salary. It continues in the agencies offices in Jordan where they subject domestic workers to forced labor and exploitation for the benefit of the agencies, in addition to torture and physical abuse by the staffs of the agencies.

Some recruitment agencies, authorized by the employers to settle their domestic worker issues, send her to her home country and confiscate the money paid by the employer. Moreover, they exploit the worker and force her to work on a daily basis.

Emma, an Indonesian domestic worker

said "The staff of the recruitment agency forced me to work in many houses unpaid for 9 months. One of the ladies I worked for advised me to file a claim against the recruitment agency... I filed a claim... they handed me over to the employer under whose name I was recruited."



Suneetha, a Sri Lankan domestic worker

said "The owner of the recruitment agency confined me in the toilet. He beat me there and deprived me of food... because I refused to work in that house."



Recruitment Agencies Worth Noting

Al Omam Recruitment Agency arranges for direct contact between the employer and the domestic worker before recruitment. It is a good opportunity to be introduced to each other before signing the contract. Through the meeting the employer explains to the domestic worker the nature of work she will carry out, the number of family

members she is going to serve, and the general amount of work she will do. The domestic worker has the right to accept or refuse. If she accepts, they finish the recruitment process. The agency follows up with the domestic workers in the employer's houses through a qualified employee. The agency also informs the domestic workers about his/her rights according to the Jordanian legislation. Additionally, it distributes brochures including information about the rights and obligations of both parties: the domestic worker and the employer.

Employers' Rights

Mona, an employer who spoke with Tamkeen, asked, "Why do you keep defending domestic workers' rights? Don't we have rights as well?"

The employer dons a heavy financial burden when recruiting a domestic worker. In fact, the total cost to bring a domestic worker to Jordan sometimes exceeded JD 3500 "\$5000". On top of this high cost, recruitment agencies exaggerate the cost of recruitment. If the domestic worker leaves his/her employment for any reason, whether because of rights violations, sickness, refusing to work, suffering from family and home sickness, or not being able to stand the Jordanian weather, the employer starts putting pressure on the domestic worker to compensate the employer for the expenses of recruitment. It is important to note that the domestic worker does not receive any part of the money the employer pays for recruitment. It is when a conflict of this nature arises that the employer begins to force the worker to stay at work and continue working in order to protect the employer's rights of what he/she has paid. Although domestic workers do have access to pursue this forced labor with the judiciary, employers rarely resort to judiciary to claim compensation if the domestic workers breach the terms of contract and leave work.

Salwa, an employer

who talked with Tamkeen, said, "Where are my rights? I recruited four domestic workers from different nationalities... They all ran away... who will compensate me!?"



Dua, an employer

Told Tamkeen "My Mom is an aged lady... I recruited a domestic worker to take care of her... She left my Mom alone and ran away..."



Egyptian Migrant Labor in Jordan



Egyptian migrant workers make up 68% of the migrant labor in Jordan. Egyptian workers began to migrate to Jordan looking for work in the 1970s. After the October war in 1973, a huge number of soldiers from the Egyptian army were dismissed, leaving many unemployed. Egyptian migrant workers began to use Jordan a transit point to travel to Iraq for work. Jordan became a target country for Egyptian migrant labor because of the good relationship that developed between the two countries. However, an Egyptian migrant worker's ability to achieve the 'Egyptian dream' of coming to Jordan and making enough money to support a family is often impeded by the presence of brokers and the illegal trading of contracts. Egyptians interested in working in Jordan need to save a substantial amount of money, take out loans, and sell their valuables so that they can purchase a contract from a Jordanian or Egyptian broker. The interviews Tamkeen conducted with Egyptian migrant workers revealed that these workers are completely convinced that the amount of money they pay to the broker is a right that the broker or the contract trader can claim. These migrant workers even used the expression "paid the price of the contract" when they were describing the process by which they traveled to Jordan. Many of the workers are shocked when they come to Jordan because they find that brokers do not have any legal rights to sell Egyptians work contracts. In addition to paying the high cost of living that consumes most of their earnings they make while working in Jordan, Egyptian migrant workers are also exposed to other types of violations. They are subjected to insulting treatment by their employers, who refer to their migrant workers by saying, "I told the Egyptian," and "I ordered the Egyptian." Employers' habit of referring to workers by their nationality rather than their name makes many Jordanians treat the word "Egyptian" as synonymous to certain professions. This word association reinforces the negative stereotype Jordanians have against the work that Egyptian migrant workers perform, work that Jordanians refuse to do. Rather than looking at Egyptians respectfully for carrying out this work, Jordanians treat them as inferiors.

In spite of having the same language and the same culture, the general Jordanian public treats Egyptian migrant workers as if they are not human beings. Egyptian migrant workers have told Tamkeen that they have been shouted at by small children who threaten them with deportation.

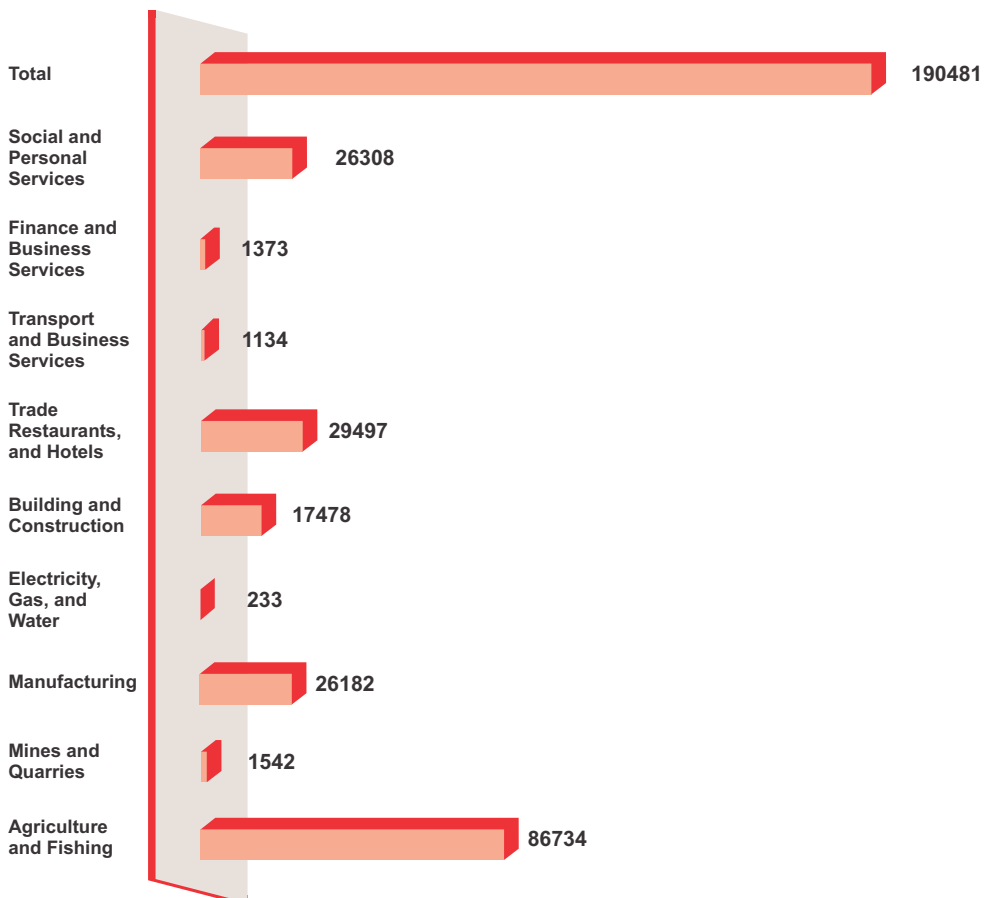
However, the Egyptian Revolution has had a huge impact on the state of Egyptian workers in Jordan. Since the revolution, Egyptian workers actively

exercise the rights guaranteed to them, and do not accept humiliating treatment by their employers. These workers refuse or try to refuse the unjust rights violations they experience when they travel to work in Jordan.

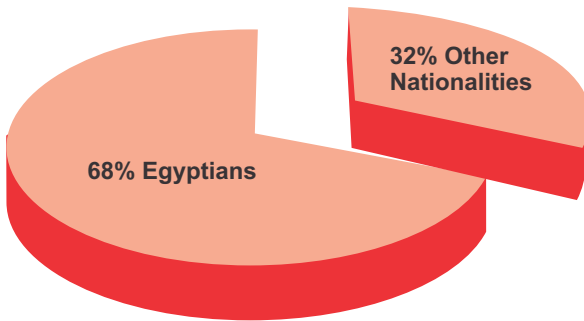
The Major Sectors in which the Majority of Egyptian Migrant Workers Work

In 2011, 190481 Egyptian migrant workers obtained work permits in Jordan. There are 135000 Egyptian migrant workers without work permits in Jordan. Both regular and irregular workers are employed in the different sectors non-Jordanian workers are allowed to work in (the sectors not on the closed list). Most Egyptian migrant workers are employed in the agriculture sector, with 86734 workers currently employed in this sector. The personal and social services sector employs the next highest number of Egyptians, with 26308 migrant workers.

The following chart represents the numbers of documented Egyptian migrant workers and the sectors they work in 2011



The following pie chart shows the percentage of Egyptian migrant labor in comparison with the other percentages of migrant laborers from different nationalities that currently work in Jordan 2011



The Recruitment System: An Environment Fostering Exploitation

1- Trading of Contracts

Egyptian migrant labor is different than migrant labor of other nationalities in terms of adherence to residency regulations. Workers of Egyptian descent do not need a residence permit to stay in the country. Egyptian workers are just requested to notify the police of their place of residence.

The violations the Egyptian workers are subjected to resemble violations migrant workers of other nationalities are exposed to. It starts before coming to Jordan. Methods of recruitment have a number of gaps. The biggest gap is in the role of the Egyptian and Jordanian governments, represented by the two Labor Ministries. The lack of regulation affects the mechanisms of supply and demand and keeps the market from getting the best labor with the best conditions and allows brokers to earn millions of Dinar from trading in contracts. This trade enriched some Jordanian and Egyptian workers who became brokers, investing in legal loopholes that allowed them to exploit migrant labor, trade on it, and to circumvent the law, particularly regarding contracts in the agriculture sector. It is easy to obtain work permits in the agriculture sector due to the preferable conditions such as permit fees being lower than other sectors. However, contract trading is not exclusive to the agriculture sector. There exists another problem. Because of the worker quotas required for many sectors, the contract trade became more obvious. The Egyptian worker bears a heavy financial burden before coming to Jordan. He might sell all his valuables, and take loans to find a job opportunity in Jordan. These sacrifices make them accept abuses and violations in order not to lose the employment opportunity.

According to the interviewed workers, the price of the work contract ranges from 600JD to 1000JD, which equals \$800 to \$1500. A Jordanian farm owner, who is allowed to recruit more than one worker, issues the work permits. This owner

sells the work permits to the Egyptian workers. They do not have to be committed to work for him and can work in other sectors. After their working contract is determined, they turn to people known for trading different types of contracts in the agriculture sector, construction sector, or service sector. They then pay a fee to renew their work contracts.

The workers call these types of contracts "commercial contracts". According to the workers, they see the price of the contract as the opportunity cost to come to Jordan and don't necessarily work for that employer.

Ministry of Labor seeks organizing the labor market in Jordan. It announced two periods to correct the status of migrant workers who have unrestricted nationalities. The first period was in July 2011, while the second was on February 2012. Through these two periods a huge number of irregular migrant workers in Jordan have corrected their status. Unfortunately, the current recruitment system undermines all these efforts.

2- The Work Permit

The issuance of the work permits takes place through the twenty-two Labor Directorates that are distributed all over the kingdom. The presence of the worker is not necessary to issue or renew a contract, according to Article 8 of the Non-Jordanian Recruitment and Employment Instructions, which requires the presence of the employer or an authorized representative, but does not mention the presence of the worker.¹ This may allow the employer to renew the contract for one year or more without having the approval of the worker, forcing him to sign a new work permit for another contracting period or an extra year. Sometimes the employer will simply sign the work contract instead of the worker.

Although Article 12 of Labor Law obligates the employer to pay the cost of the work permit, in reality it is the worker bears the cost of the permit. Most employers deduct the whole cost of the permit from the worker's salary, and in the best cases only half of it. It is not exclusive to private sector and private employers. Municipalities, councils of governorates and the government are also guilty.

Majdi, an Egyptian Worker

informed his employer that he was unwilling to renew the contract one month before the termination of his contract. The employer renewed the work permit without informing the worker.



¹ Article 8 of the Instructions states, "the employer or the authorized representative must visit the authorized directorate if he desires to renew the work permit of the non-Jordanian worker at least one month before its expiration.

3-Work Contracts

Those familiar with the electronic version of work contracts find that the language of the contract does not detail the type and the nature of work that the worker will be performing once they arrive in Jordan. The contract only requires the name of the employer, the salary to be received by the worker, and the contracting period (which is one year only). The contract does not define where the worker will work, any details related to implementation of their work, or the responsibilities of the employer and worker in case the work contract is breached.

Many workers are shocked when they reach Jordan because of the unexpected nature and type of work they are required to perform. These workers have no opportunity to withdraw from the contract, forced to surrender to the *fait accompli* imposed on them due to their prior signing of the contract. These workers are forced to work in professions not appropriate for them, and in many cases the work they are required to do exceed their abilities and stamina.

4- The Insurance Document

The Instructions of Conditions and Procedures for the Non-Jordanian Recruitment and Employment Article 12.a of Labor Law No. 8/1996 makes a clear distinction between the recruitment and employment procedures for non-Jordanian workers, of which there are restricted workers, non-restricted workers and Egyptian workers. Article 14 of Labor Law explicitly states that Egyptian workers are governed by different regulations that are detailed in the paragraphs of the same article. However, the article does not explain, or provide any justification whatsoever, for why any distinction needs to be made between the procedures for Egyptian workers and workers of other nationalities.

These different regulations require Egyptian workers to pay \$250, or its equivalent in Jordanian Dinar, when he enters the kingdom to guarantee that he will follow his employer and obtain work permit for 45 days. This amount of 'commitment' money should be paid by the employer, not by the Egyptian migrant worker. According to the Labor Law No. 8/ 1996 modified in Law No. 26/2010, the issuance of work permits falls within the responsibility of the employer; because this 'commitment cost' is associated with fulfilling the work contract, the law requires the employer to pay it, and not the worker. These legal articles need to be revised so that they not only clearly define the responsibilities of the employer and worker, but also so that the worker is not at the mercy of the employer to fulfill his commitment of issuing the work permit in the period stated in the regulation. Making Egyptian workers carry this financial burden and differentiating between them and other migrant workers with different nationalities contradicts the International Convention No. 111/1985 and its recommendations. Moreover, by having the recruitment process tied to whether or not the Egyptian worker has the financial capacity to pay the required costs is discrimination as well because it

prevents proficient, skillful workers the equal opportunity to be involved in all potential economic activities. It is important to note that if the 45 day period of the worker's entrance to Jordan passes without the employer obtaining the work permit for the worker, the amount of money the worker paid to get in Jordan will be confiscated by the Jordanian Treasury.

5- Social Security

Article 11.a & b of the Instructions of Conditions and Procedures for the Non-Jordanian Recruitment and Employment which was issued according to Article 12.a of the Labor Law No 8/ 1996 states that if the migrant worker's work contract has been expired for 90 days, and he has not returned to his country, he must obtain a permit to receive social security benefits. The worker who does not have a prior work contract must pay the cost of the work permit retroactively for the whole period of his subscription in social security. This has led to a loss of wages to the social security institution for a large segment of the Egyptian workers. Many employers are slow to return passports to workers after the end of their contracts, citing excuses such as waiting for new workers, not having enough money to cover the dues of the prior workers, accusing the workers of several charges in front of the public authority and the Ministry of Labor. Sometimes workers suffer an accident or other circumstances prevent him from leaving the country before 90 days. The issuance of these instructions resulted in the confiscation of more than 500 million dollars from the back-dues of the Egyptian workers. They left their dues and returned back to Egypt because of the futility of obtaining a permit. The cost of its issuance exceeds the dues owed to the worker from social security. This problem has existed until now and nothing can be done. It is out of the worker's hands to decide when to leave the country due to the inflexibility of the employers. He also cannot apply for a work permit, because it is the employer's responsibility, not his. In short, the worker cannot receive his dues from the social security because the Ministry of Labor issued regulations requiring him to carry out what should be the duty of his employer.

These instructions contradict article 12.c of the Jordanian Labor Law, modified in law No. 26/2010. Article 12.c obliges the employer to bear this cost and to issue the work permit. They also contradict article 70.b of the Social Security Law 30/1978, modified by law No. 7/2010. Moreover, they contradict article 5 of the bilateral agreement between Jordan and Egypt, signed in March 26th, 1985, which emphasizes the equality of rights and commitments between the workers of both countries without any distinction. Every unilateral decision from either country breaching this agreement is considered void.

The cost of one job opportunity

The cost of one job opportunity for an Egyptian migrant worker coming to Jordan is 849.5 JD, which equals \$1200. 175 JD is paid for the insurance document in the Aqaba customs when he enters the borders, 70% of which is not paid back to the worker. 270 JD is required to cover work permit fees. 360 JD is paid for an annual subscription to the social security system, which is 18.75% of the salary. 37.5 JD is the disease-free certificate fees, which are required to issue a work permit. Finally, 7JD is required for the life insurance policy.

The above amounts are what Egyptian migrant workers pay without the intervention of brokers or the dealers. The cost for an Egyptian worker who is trafficked by brokers and dealers and forced to pay a huge sum of money to cover the "contract price" may reach 1,000 JD. This is in addition to the financial burden a worker bears while he prepares his documents in Egypt and the cost of travelling to Jordan. All these elements compel the migrant worker to leave his contracted work and seek higher income. He may also work more than one job, and try to work more than 18 hours a day to earn more money.

Occupational Safety and Health

One of the Egyptian workers who talked with Tamkeen has been working in Jordan for over 30 years. During the decades he worked in Jordan, he accidentally inhaled a gas, which caused him to develop a disability that now prevents 81% of his body from functioning properly. The company he worked for refused to pay him his due salary, forced him to sign a clearance form, and threatened him with deportation if he filed a complaint.

The provision of medical care given to migrant workers issued by the Ministry of Labor differentiates between the treatment a company must give the foreigner worker and Jordanian worker. The Regulation on Prevention and Safety, Devices and Industrial Machinery, and work sites No.43/1998 obligates the employer to adopt precautions and procedures that protects workers' safety and prevents them from engaging in risky working practices. Furthermore, the Regulation of Preventive and Curative Care for the Workers of Institutions No.42/ 1998 requires the employer to carry out periodical check ups on his employees, recruit the required number of doctors and nurses if any are needed, and cover the costs of these doctors and nurses.¹

¹ Article 7 of the Regulation obliges the companies and the factories to employ a doctor and a nurse, or establish a medical unit in accordance with the number of workers according to the following provisions: 50 to 100 workers requires 1 nurse, 1 doctor, and 1 part-time doctor inside a medical unit; 101 to 500 workers requires 1 part-time doctor and 2 nurses inside a medical unit; 501 to 1,000 requires two full time doctors and 3 nurses in the medical unit; 1,001 and more workers requires 3 full time doctors, 4 nurses inside a medical unit.

The Social Security Corporation provides workers who suffer from work related injuries and diseases with health care, free of any discrimination based on nationality.¹ However, the insurance provided by the social security covers only the subscribed workers.

Medical care for injuries and emergencies unrelated to work are not covered by medical insurance. Through the complaints received by Tamkeen, we have found that the worker covers these costs from his personal money.

In Jordan, 41.8% of work related deaths and injuries occur in the construction sector. A high percentage of documented and undocumented Egyptian migrants work in the construction sector, with 42,000 Egyptians working in the construction sector in the winter, and 175,000 working in the summer.² About 6,000 Egyptian migrant workers are employed in the chemicals sector where many suffer from inhaling poison gases that leave them mostly disabled.

About 7,000 Egyptian workers work with hazardous waste in Jordanian hospitals, 70% of who work in Amman. The rest work in other governorates. They were recruited as cleaners to work for supportive service companies, who then have them work for hospitals. In this way the hospitals are not responsible for the workers.

In 2009, 4 workers were infected with AIDS and died, and 7 workers were infected with hepatitis. They used to work in one of the Kingdom's hospitals that did not take appropriate safety precautions for workplace health.

In 2011, 17,365 Egyptian workers had work related accidents. These accidents left these migrant workers with anywhere between 10% and 80% of their bodily functions permanently crippled. In fact, 20% of these cases resulted in the amputation of workers' limbs. The number of work related accidents that result in death are 146 per year.

¹ Article 4.a of the Social Security Law No. 19/2001 states that provision of this law covers all workers who are not less than 16 years old regardless the nationality, the type or the duration of the contract, or the nature or value of remuneration, and whether the implementation of the work is inside or outside the kingdom without breaching provisions of international conventions governing the rules of double insurance.

² Documented and undocumented workers.

³ Tamkeen's interview with Salah Atteian, the Labor Council in the Egyptian Embassy, on April 5th, 2012.

Mohammad, an Egyptian worker

who spoke with Tamkeen, told us that he was recruited to work for a private factory for manufacturing electrical appliances. In his second month of working, his left leg was broken. The employer refused to cover his medication, forcing him to bear the expenses of the medication by himself.



Migrant Workers in the Agriculture Sector: “Neglected Rights”

Agricultural workers are considered to be neglected workers because they are among those most subjected to abuses. These abuses include the confiscation of their passports and withholding of some or all of their wages. In addition, they are exposed to suffering in their workplaces, verbal abuse, mistreatment, and poor living conditions (often in plastic green houses). They are also deprived of their weekly day off and yearly vacations. They also work long hours. All of these abuses are due to the remoteness of the farms, most of which are located outside of the main cities in the country regions where local, kinship, or societal rules preside over them. These rules form a barrier before the worker, forbidding him from demanding his rights out of fear of being persecuted once he presses a complaint against the employer. In addition to the seasonal and temporary problems in the farming sector, the work period is limited to the beginning of July to the end of April. Finally, the payment of wages are delayed and correlated to crop sales.

In accordance with the latest amendments to Jordanian labor laws in 2008, agricultural workers are now included under the umbrella of labor laws, after having been excluded from their scope and submitted to the general rulings of work contracts under civilian laws.

These latest legislative amendments presumably were meant to provide a suitable work environment for this sector similar to workers in other sectors on the basis of equal rights and duties. These are rights for which labor laws provide legislative protection, such as overtime, yearly vacations, and exemption from paying litigation fees in labor lawsuits. Nevertheless, the inclusion of farm workers under this umbrella has been far from perfect. When these amendments were passed, the Ministry of Labor guaranteed that, in addition to the rights given to migrant workers through these amendments, there would be a system of regulations created specifically to govern the affairs of Egyptian migrant workers in the agriculture sector.¹ Despite the fact that more than three years have passed since the amendment to the labor laws and the Ministry’s promise of creating this new system specifically for Egyptian Migrant workers in the agriculture sector,

¹ Article 3 of Jordanian Labor Laws.

this new system has still not been passed.

It is worth mentioning that the 2010 report from the Department of Labor included a paragraph detailing the accomplishments of the Department of Legislative Legal Affairs that claimed that a draft of the new labor policy concerning Egyptian migrant workers in the agriculture sector has been set out.¹ But if it has taken two years for a draft to be written, and still two years after that this policy has yet to see the light of day, then how much longer will it take for the policy to be passed? And how much longer before it gets implemented?

Not putting out this policy has led to a legislative gap that must be filled, either by issuing the policy or by including agriculture workers under these laws. The second option is more preferable seeing as the goal of including agriculture workers under these laws is the preservation of their rights to the first degree.

This legislative gap has opened the door to two court judgments that all jurisprudence experts see as the right judgment:

The first option is that the issuance of the policy is an essential requirement for the practice of the law. However, since the policy has not been passed, it is not possible to apply the law to migrant workers in the agriculture sector.

The second option is that the law should explicitly state that these agricultural workers are included under the consideration of the labor laws, and that the fact that the policy has yet to be passed should not affect their inclusion into these labor laws. But there is nothing that forbids the application of local rules on to this sector until the passing of the policy.

Armia is an Egyptian farm worker

who was subjected to beatings and verbal abuse from his employer's son. As a result of complaining, his employer fired him. Armaya later demanded his labor rights, requesting the remainder of his work period as stated in the contract. His case passed through a legal hearing, but the court immediately came to a decision before even listening to the worker's witnesses on the basis that the worker's occupation was considered agricultural. Moreover, his demand was not subject to the labor laws and it was required that he pay fees for the case, as stipulated in civilian laws.



¹ Yearly Report from the Department of labor, p. 68

Violations of the rights of Egyptian workers

Like workers from other countries, Egyptian workers are subject to a number of abuses. The Egyptian embassy takes in a rate of 150 complaints a day from Egyptian resident workers in Jordan. The following is a list of some of the abuses Egyptian workers are exposed to in Jordan:

1- The Confiscation of Passports and Official Documents

Like workers from many nationalities, Egyptian workers' passports are taken from them. Around 70% of employers seize their workers' passports and official documents, especially in the agriculture sector. This is in violation of Article 18 Section A of the Jordanian Passport Law and Article 222 of the Jordanian Penal Code. Employers will insist on keeping custody over their workers' passports as soon as they arrive under the pretext of distributing work permits. However, some employers insist on confiscating the passports under the pretext that this is the only way of guaranteeing that their workers will stay with them. Moreover, sometimes security or judicial authorities confiscate their passports, even if the workers are witnesses and not the accused. This leads to workers not being able to receive work licenses during the period of the confiscation of their passports.¹

Khalid is an Egyptian worker

who was recruited to Jordan to work as a farm worker. From the date of his arrival on the farm until the end of his complete contractual work period, his employer confiscated his passport. Despite his continual requests for his passport, his employer refused to give it back to him because he wanted the worker to work for him for an additional period.



2- Partial and Complete Withholding of Wages

In addition to other abuses mentioned, employers will not pay earned wages to Egyptian workers in a monthly and timely fashion. Many employers use a system of payment known as the Collection System. In this system, the employer pays the worker just a small portion of his wages over a scattered period of time. This might be an amount that is just barely enough to meet the worker's personal daily needs. The employer keeps the rest of the wages for his entire group of workers, as if he is 'collecting' the money for the workers, then pays them all the money that he has 'collected' for them at the end of the period of their work contract. All of this is done as an attempt to pressure the workers to stay at the job. Employers also deduct a part of their workers' wages in exchange for room, board, water, and

¹ Egyptian labor consultant Salah Ateyan in a roundtable discussion on the subject of migrant workers and forced labor, which took place at Tamkeen on 20/6/2012.

electricity. Moreover, not less than 15% of workers have to file a complaint to the Ministry of Labor or the embassy, or file a court case in order to receive their dues. Article 3, Section C, Part 7 of Instructions and Preconditions of Employment and Recruitment of non-Jordanian Laborers states that the employer must make a judicial or bank deposit in the agricultural sector or a bank deposit in any other sector; if the employer breaches any of the obligations he has to his workers as outlined by the relevant law and regulations issued hereunder, the Courts can decide where to allocate this bank deposit so as to protect the workers' rights and guarantee that the price of the worker's return airplane ticket to his country is covered. Unfortunately, no deposit has been paid pursuant to this Instruction, nor is the worker compensated when the employer breaches his contractual obligations.

136 cases of Khul' divorce or warning of Khul' divorce - have been filed in 2011 by the wives of Egyptian workers in Jordan for failing to send financial support.¹ In all of these cases, according to the report, the husbands were working in the agricultural sector and obligated to work for their employers.

3- Other Violations

Like migrant workers from other countries, Egyptian workers are subjected to verbal and physical abuse. Abuses include forced signatures on bonds that compel workers to stay and work. Also, employers will threaten to file a complaint against the worker, such as a complaint of theft. They also suffer from degrading treatment and verbal abuse.

Hamdan is an Egyptian worker

whose employer forced him to sign a promissory note. When Hamdan left the work, the employer submitted it to the Department of Enforcement in court, which sentenced Hamdan to 30 days in Armeemeen prison.



4- Security Surveillance

Although Egyptians are not confined by residency laws, and they are entitled to reside in Jordan whenever they want for as long as they want, with the condition that they report the place of residence, Egyptian workers are subject to security surveillance. He might be stopped while walking and asked about his work permit, despite the fact that he is not in a workplace. More often than not, according to the workers, these surveillance sessions are interspersed with violations and verbal abuse.

¹ Khul' divorce allows the wife to divorce her husband without giving a reason. The wife must pay back all the money that her husband spent when marrying her, and then will receive the divorce.

Ali is an Egyptian worker

who was recruited for work on a farm in 2007. He worked on one of the farms for a salary of 150JD a month. He was working on the farm throughout the week, and on Friday the owner forced him to work in her house. He submitted to her demands, fearing he would lose his employment opportunity, and when he refused to work in the house she insulted him and treated him contemptuously and threw her shoes at him... and threatened to tie him to a tree in place of the dogs. After she departed, Ali left the farm, fearing that the owner would carry out her threat. The owner filed a complaint of theft against the worker at the police station, where he was detained for one night, and on the following day the complaint was transferred to the Attorney General. There, the owner said that the worker had not stolen anything but she wanted to discipline him because he was lazy.



The Adequacy of Redressing Mechanisms



Places to File Complaints

The concerned authority created three ways to receive workers' complaints. The first way is allowing the worker to file a complaint directly to the labor directorates. The second is providing hotlines operated by the Ministry of Labor for the workers to call; it is important to note that the Ministry claims that they can handle complaints in seven languages. The third way is allowing the workers to file a complaint with one of the police offices throughout the Kingdom.

1- The Labor Directorates

It is possible for the worker to reach the labor directorates to file a complaint. However, sometimes it is difficult for the worker to access these places because of their restricted mobility. For example, domestic workers who are not allowed to leave their house cannot access the labor directorates for redress. Agricultural workers who work in rural areas where the social and kinship relations within the community govern the relationships between the people cannot file a complaint because they are scared that their employers will find out because of the close-knit nature of the community. According to annual reports released by the Ministry of Labor, huge numbers of workers' filed complaints have been resolved; however, there are likewise many complaints that the Ministry of Labor, in fact, does not solve or take action to resolving workers' issues.

2- The Hotline

The hotline is one of the most important means for filing complaints. A hotline is present in the Ministry of Labor for receiving complaints. During our follow-ups and tests of its effectiveness, we found a marked improvement in the follow up on complaints from Arabic-speaking workers, in cases that the workers knew of its existence. However, we cannot call it a hotline, because it does not work except during official work hours, whereas after-hours the caller must leave a voicemail. In other cases, for workers who do not speak Arabic, the problem still stands. During our experiences with Bengali workers, when we tried making the workers contact the hotline, they could not figure it out despite several languages.

According to officials in the ministry, the hotline works until three PM, and after this it takes a recording of the call. This is not acceptable for domestic workers

who do not know when they will have the opportunity to call again. It is possible that it will cause many problems for them with their employer if they are contacted after leaving a recording.

3- The Police Station

There are police stations spread all throughout the kingdom. Migrant workers often turn to police stations when the employers subject them to violation. Non-Arab migrant workers face a problem in explaining their complaint because of the differences in language. The police officers do not know how to handle this complaint, especially since interpreters are not available in the Directorate of Public Security. Moreover, employers often file an 'absconding' report with the police against their worker, making a challenging barrier for migrant workers to protect themselves from rights violations. The police stations detain the worker directly, even if he is the one who filed the claim, until his employer arrives.

Difficult Accessibility to Justice

Justice is a value, a principle and a fundamental condition that defines the ability of the individual and the society to live and work peacefully. Justice is the highest principle of law and its spirit that needs to be protected. The presence of justice in society directly affects the availability of opportunities for those who live in that society because justice allows equality and parity to grow. Respecting justice creates an appropriate environment for human beings to achieve progress and prosperity.

1- Litigation

The right to litigation in Jordan is available to every single person without discrimination. In fact, the Jordanian judicial system is distinguished for its impartiality. Nevertheless, many migrant workers who pursue litigation often face a prolonged legal process that leads to the workers sustaining damages and not receiving just treatment. The routine negative practices of the Public Authority deprives migrant workers from receiving appropriate and fair compensation and treatment for the damages from which they suffer; the majority of migrant workers leave Jordan before they are able to demand their financial rights because these systemic, negative practices allow the administrative authorities and the public security to deport migrant workers either before they can receive their dues or appropriate compensation for the damages from which they have suffered, or take their complaints to court. Another challenge that prevents victims from receiving justice is required expenses for pursuing litigation. Jordanian law requires the presence of a lawyer, and many charge more than 1000 JD for resolving a case. This high financial barrier prevents the migrant worker from exercising their rights through litigation.

Jordanian Labor Law states that if a worker does not claim his or her salaries for two years, the employer no longer has to pay the worker those unpaid salaries. The law likewise states that the worker loses the right to claim damage compensation after three years have passed without them claiming their rights. Because domestic workers often face forced confinement and deprivation of contacting people outside the house, they are often not able to claim their rights in the statutory time period. This statutory time period only further limits domestic workers' ability to access the legal system, adding to the difficulties they face in following up the cases in the courts resulted from their lack of knowledge about the Jordanian legal system as well as the language used in the different levels of investigation and in court.

One of the most important challenges that prevent migrant workers from seeking equal treatment under the law is the lack of information they receive about their rights. Domestic workers face a particular problem because they are often deprived of accessing all of their personal and official documents when they arrive to Jordan; sometimes these official documents are transferred from one employer to another without the knowledge of the Ministry of Labor when domestic workers are transferred from one employer to another, even though the Domestic Workers Regulation requires the Ministry keep a copy of the contract on file. Unfortunately, it is hard to obtain a copy of the contract from the Ministry. In one case, Tamkeen specifically asked the Ministry of Labor for a copy of a worker's contract after a demand was issued through a court order. Rather than provide the actual contract, the Ministry provided an empty copy of the contract template, stamped by the Ministry of Labor and signed by the officer in charge. Tamkeen believes that the Ministry's inability to provide the worker's contract can be attributed to several different reasons, including:

- * The Ministry does not keep a copy of the contract.
- * The Ministry's method of filing the contracts is complicated, making it hard for employees to find them.
- * The employee did not seriously search for the copy of the contract.

No matter what reason the Ministry had for why they were unable to provide the contract, their actions (or lack there of) are unacceptable because it prevents domestic workers' from exercising their rights.

2- Recriminations

One of the most common barriers that prevent migrant workers from accessing justice is the threat commonly made by employers of imprisoning their migrant workers or filing a claim against them. If the workers try to claim their rights, the employers file a complaint of theft against the workers. These complaints have no bases, and the workers are acquitted. Tamkeen for Legal Aid and Human Rights received many cases for Egyptian migrant workers and domestic workers

who have been accused of theft by their employers. Here are some cases followed up by Tamkeen in court:

The first case



Padmini, a Sri Lankan domestic worker, told Tamkeen that “I worked in a house in Amman for 5 years and 3 months without being paid... My employer told me that she is keeping my money with her to pay it back to me before I return back home...”

Padmini filed a complaint of human trafficking against her employer, and on March 6th, 2011, the General Attorney called the employer. As soon as the employer left the court, she went to Al Baiader Police station and filed a complaint of theft against the worker on the same day at 7:00, even though Padmini had left her work around 5 months earlier. The Padmini case was referred to the Attorney General, and after being investigated, she was detained in Al Jwaida Rehabilitation Center for two weeks pending further investigation into her employer’s accusation of theft. Two requests of release on bail were refused. Padmini was referred to the court of West Amman, and was released on bail after the first session. After examining her case, the court declared that Padmini's was not guilty.

The second case



Susi, an Indonesian domestic worker, traveled to Jordan for work in 2010. She worked 6 months in one house, and was then moved to another family. When Susi was transferred to her second employer, her first employer gave all her salaries to her second employer rather than giving them directly to her. Susi worked for another year in her second employer's house. Her second employer informed her that he was saving her salaries in his safe so as not to lose them. Susi had not received her salaries for a year and a half from either of her employers. In addition to her salaries being withheld, the son of her second employer also mistreated Susi, and her passport was confiscated. When she left her work because of this mistreatment, her second employer filed a theft complaint against her. When Susi went to file a complaint of passport confiscation and mistreatment in the police station, she was arrested and referred to the

Attorney General. In the employer's testimony, he stated that Susi stole the gold of his daughter who is currently outside the country. After investigating her, she was referred to the court to be tried for the employer's accusation of theft. After the trial proceeding in West Amman Court, the court declared that she was not guilty of theft.

The third case



Neelan, a Sri Lankan Domestic Worker, was employed by a Jordanian family for one year and seven months. During her employment, the family forced Neelan to work in two houses; Neelan was forced to work in the employer's mother's house from morning until night, and then work for her employer at night. Overwhelmed at the sheer amount of work she was being forced to do and having not received her salaries for 8 months, Neelan left her work. The employer filed a complaint of theft against the worker. After Neelan was arrested, the employer said that she was not sure the worker had really stolen anything. The employer said she filed this complaint to protect her property and to punish Neelan for leaving work.

The fourth case



Reda, Hani, and Yehya are three Egyptian workers who were recruited to work as farmers in Jordan. After working for 8 months without being paid, they left the farm and filed a complaint with the Labor Directorate of DairAlla.

The workers were contacted and asked to visit the Labor Directorate of Dair Alla to receive their dues. When they visited the Directorate, they discovered that the call was a ploy, and were arrested by police officers for an accusation of theft that was filed against them by their employer. Their case was investigated, and they were held in the police station for four days. They were then referred to the Attorney General who discharged them due to the lack of evidence.

The fifth case



Jamal, an Egyptian worker, came to Jordan in 2011 to work in one of the cafes. His employer mistreated him, verbally abused him, and did not pay him. These poor conditions forced Jamal to leave the workplace. The employer filed a complaint of theft against him. The Attorney General investigated the complaint and referred the case to Amman's Court, which discharged Jamal.

The Innocent Behind Bars

1- Police Notification 'Reporting Absconding'

One of the fundamental rights recognized by all national and international laws is the right to liberty. According to these laws, no one can arbitrarily or illegally be deprived of liberty. An individual cannot be arbitrarily or illegally deprived of the right to be treated humanely, the right to equality, and the right to not be discriminated against based on their nationality, race or origin. These rights are recognized by various conventions ratified by Jordan, and have been adopted to be part of its enforced national law for years. Additionally, these rights are obviously recognized and enforced by the Jordanian constitution. Throughout its experience, Tamkeen has noticed that forced confinement of migrant workers is widespread. These workers, particularly domestic workers, are deprived of their liberty without any legal or legitimate justification. If a worker leaves work, the employer can file a 'police notification' with the police station. This 'police notification' has no legal basis, and allows the police to arbitrarily look for, capture, and imprison migrant workers who have left their employment. Besides being an arbitrary, illegal deprivation of liberty, this practice is also discrimination because it is practiced exclusively against migrant workers who decide to leave their employment and not Jordanian workers.

A worker leaving his or her employment before the expiration of his agreed work period is not an offence, and it does not justify punishing workers with detention. It is merely a labor dispute between the migrant worker and the Jordanian employer, and should be treated exactly as if a Jordanian worker leaves his work.

Moreover, even though it is not within the scope of their powers, the police stations serve as Judicial Authority on certain occasions. The police's main concern is to assist the Jordanian employer, regardless of the rights of the second party. The police station's preference towards the rights of the Jordanian employer is clear particularly in the case of the domestic workers. When an

employer files a 'police notification' because their worker has left the employer's home, once they find the worker, the police either force the domestic worker to return to her employer or send her to the detention centers. This practice places the worker between two very hard options. It is unreasonable to have the employer responsible for notifying terminated employment; it is also unreasonable to have the police settle labor disputes that should be decided by the judiciary. As it stands, this practice facilitates the victimization and the exploitation of the workers. It deprives the worker from the right to choose his job and subjects the worker to the exploitation and domination of the employer. It means that, legally and practically, the worker is a victim of human trafficking.

This practice is one of the common challenges that prevent migrant workers from accessing justice. If either the migrant worker files a complaint in the police station, or if the General Attorney refers the case to investigation or demands the presence of the second party, the worker is arrested or sent to detention, even though he is the one who filed the complaint.

Lowie, an Indonesian domestic worker



worked for seven months in a house. She did not receive any wages or salary for her period of employment. Her employer and his son beat her. She ran away from her employer's house and sought refuge in her home country's embassy in Jordan. The employer filed a notification of absconding report with the Talaa al Ali Police station, saying that Lowie left her workplace. Lowie went to the Talaa al Ali Police Station, and because there was an absconding report filed against her, the employer was called to the police station to receive the domestic worker, even though Lowie refused to go with her employer. The employer beat Lowie, because she left the employer's house. Lowie was forced to work for the family for an extra three months without receiving any salary. She ran away again, seeking shelter in her home country's embassy. Lowie filed a confiscation of passport complaint with the General Attorney, who referred her complaint to Talaa al Ali police station to investigate with the two parties involved in the complaint. When Lowie went to the police station, she found that her employer had filed a new absconding report against her, and again the employer was called by the police station to take her back to the employer's house for work. Next morning, Lowie jumped from the second floor of the employer's house, breaking her leg and her back. Who is responsible for the damages that happened to Lowie? Are the official practices followed by the police and General Attorney to blame, or is her employer?

While the instructions issued by the Director of Public Security regarding the Police Notification No.Q\2\36\3557 on November 23rd, 2011 are not satisfying, they are a step in the right direction. Even though these instructions are a sign of success, police stations still refuse to adopt the instructions. They insist on continuing their arbitrary and discriminatory practices that have no legal or legislative basis. Ironically, although the Public Security still insists on conducting these negative practices, it has declared itself to be civil society's partner in the protection of migrant workers' rights.

Meneka is a Sri Lankan domestic worker



She came to work in Jordan on December 27th, 2009. She worked in a house for 4 months without being paid. Meneka was mistreated by her employer, put under strenuous work pressure, and prevented from contacting her family. When she asked her employer for her rights, her employer sent her to the recruitment agency. She was beaten in the agency and sent back to her employer. Meneka ran away from the house because of continued mistreatment; her employer filed a report of absconding with the Shmiesani Police Station. On March 21st, 2011 Meneka sought assistance from Tamkeen for Legal Aid and Human Rights. Tamkeen tried to use mediation with the employer to receive Meneka's confiscated passport, cease the Police Notification, and repatriate Meneka who was suffering from a tumor in the head. The employer refused the mediation and asked for JD 1200 to hand over the passport. After the issuance of amnesty on June 2011 that cancelled her accumulated overstay fine, Meneka, accompanied by a lawyer from Tamkeen, went to the Shmeisani Police Station on July 13th, 2011. Meneka was arrested in the Police Station due to the Police Notification filed against her by the employer. The employer came to the police station and took Meneka against her will. Meneka was confined in the house of the employer's mother. They seized her airplane ticket and the money she had. Then they threatened her with detention until she paid 1200 JD for her passport, forcing her to stay in the country until she paid the money. Two days later, Meneka ran away from the house by jumping from the window. She approached Tamkeen again. One of Tamkeen's lawyers accompanied her to the General Attorney to file a complaint of passport confiscation and theft against the employer. Meneka was referred to Shmeisani Police station to conduct an investigation, and contact and hear from both parties.

On July 24th, 2011, the case was referred to the General Attorney, and

then to Amman Court. During this time the employer gave Meneka's passport to the General Attorney.

On July 18th, 2011, a precaution was sent to the employer on behalf of Meneka, alerting them of Meneka's termination of employment contract due to the employers breaching her contractual commitments. This precaution also stated that Meneka would claim her financial dues during the period she was employed.

On August 3rd, 2011, a case of rights consolation was filed, claiming Meneka's labor rights and the termination of the contract.

On September 5th, 2011, the employer reported the worker's absconding from her house to the Shmeisani Police Station. This report prevents Mannika from returning to her home country. Although Tamkeen's lawyer went to the Police Station many times to find the reasons for maintaining the absconding notification, she received no answer. Meneka's case was referred by the Police Station to the Resolution Conflict Committee in the Ministry of Labor. The Committee decided to cease the Police Notification and repatriate the worker so as to not be subjected to exploitation.

The workers in the Police Station did not accept to cease the Notification without the presence of the employer, which allowed the employer to blackmail Meneka by requesting money to cease the notification.

2-Administrative Detention

The right to liberty is an absolute right, and it is one of the major fundamental rights inherent to human beings. Human rights conventions and the international norms highlight the importance of all countries guaranteeing this right to those who reside in their borders.¹ Countries should pursue all the preventive, legislative, and curative measures necessary to prevent violating this right. Furthermore, they should guarantee the equity of the forced detention victims, and compensate them in damage cases.

A negative practice commonly performed by the Jordanian public authority against migrant workers is arbitrary administrative detention, which is essentially the police detaining migrant workers for technicalities that do not have any legal grounding. It violates the international human rights conventions ratified by

¹ Article 9 for the Universal Declaration of Human Rights, "No one shall be subjected to arbitrary arrest, detention or exile." Also, Article 9 of the International Covenant on Civil and Political Rights, "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."

guarantee the right to liberty and have been published in the official Gazette for years. Tamkeen for Legal Aid and Human Rights has noticed that the local authority, in conjunction with the Public Security Department, has adopted a systematic, administrative approach to detaining migrant workers in a manner that breaches Jordanian Law and human rights conventions, including Article 9 of the International Covenant on Civil and Political Rights, and Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This detention causes serious financial and psychological damages to this category of workers.

The detention of migrant workers with no legal or legitimate reason is a phenomenon that needs serious intervention from the concerned authority. This practice needs to be stopped, and the victims redressed and compensated for the damages they have suffered. The nationality of the worker, or his status as a foreigner in the country, should not be a reason for his illegal detention.

It is not reasonable to detain the worker due to a contractual background, which often occurs with Egyptian migrant workers. When an Egyptian worker is found working in a profession or for an employer other than the one mentioned in his work permit, or working without a work permit, he is detained until the issuance of a deportation decision. After the issuance of the deportation decision, the worker is kept under detention until the decision is carried out.

Migrant workers who have a nationality other than Egyptian that is restricted by the Residency Law suffer from the same problem. An irregular migrant worker who breaches the Residency Law might be arrested and sent to detention for an extended period of time because of his inability to cover the residency overstay fine. A decision of deportation might be issued against the worker. He might be arrested in the detention until carrying out the decision. The worker may be kept in detention for months, and sometimes for more than one year, making it hard to provide these workers with air tickets.

Thushani, a Sri Lankan domestic worker



came to Jordan on May 22nd, 2009. She worked for one family for 4 months without being paid. She was deprived of the right to receive full meals.

Thushani was forced to work in more than one house for the different members of the family. She used to work from 5 am until 12 pm. The employer cut her hair, although Thushani begged her not to do so. She was prevented from contacting her family, and her passport was confiscated.

Thushani left the house of her employer to seek liberty and dignity. Since Thushani had no idea how to remedy her situation or to return back home, she stayed in the country as an irregular worker. Since her employer did not renew her residency her overstay fine accumulated.

During this time, Thushani got married and became pregnant. She was filled with joy after the issuance of the General Amnesty Law, which created the possibility of her returning to her country. However, Thushani did not have her passport, and she did not know the name or address of her former employer.

On September 12, 2011, Thushani retrieved a travel document and was directed to the airport by a nun. At the airport, Thushani was identified and stopped because her employer had submitted a report of absconding from the workplace to the police.

When a domestic worker is found, the absconding report must be cancelled. However, Thushani's employer refused to withdraw the report and take her back. Thus, Thushani has been sent to Juweidah prison until the issuance of the deportation decision. The deportation decision was declared on September 14, 2011. Thushani gave birth to a baby girl in prison. The two are still in detention. Because she did not have an air ticket, Thushani was kept in detention until she left the country on March 9th, 2012.

Ahmad, a young Egyptian man



, travelled to Jordan in 2004 seeking a good job opportunity to help him and his family have a better future. Until 2009 Ahmad worked for three employers in a regular documented way. Meanwhile, he married an Indonesian woman and fathered a child with her. In 2009, he worked with an employer, but a disagreement that arose between the two prompted the employer to cancel his work permit, despite its validity. The Arrivals Committee stopped Ahmad on October 21st, 2009. A decision on his deportation was issued by the Minister of Interior on the recommendation of the Minister of Labor on December 28th, 2009. Ahmad was detained for 16 months, but not deported during this period. After starting a hunger strike, Ahmad was set free on January 19th, 2011. This anecdote begs the question of whether or not breaking the Labor Law warrants detention.

3-Deportation

Migrant workers of all different nationalities are continually threatened by deportation. Articles 31 and 32 give the administrative governor the right to deport a foreigner after the issuance of the related court decision of entering the country illegally. Article 37 states that Minister of Interior, upon the recommendation of the Public Security Director, has the right to deport the foreigner. The Minister also has the right to temporarily arrest the foreigner with the intention of deporting him until completing the deportation procedures. The previously deported foreigner is not allowed to return to the kingdom except with the special permission of the Minister of Interior. "The Minister is not obligated to present the reasons for deportation. He has absolute discretion over the matter that is only limited when he abuses his power."¹

It is noticeable that these articles in the Residency Laws and Foreign Affairs are not in accordance with Article 13 of the International Covenant on Civil and Political Rights, which states, "An alien lawfully in the territory of a State Party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law, except where compelling reasons of national security otherwise require."

Currently, there is an abuse of power with regards to deportation. The decision to deport is arbitrary. Upon the recommendation of the related authorities, any migrant worker who is arrested can be deported. Although the employer is the only one who is in charge of issuing the work permit and the residency permit, the migrant worker will be deported whether he has a residency permit or not.

It is noteworthy to highlight the speed with which the deportation decisions are issued; the related authorities treat each case as if there is a one-size-fits-all model. As soon as the migrant worker arrives at the police station, a recommendation of deportation is issued no matter whether the worker is the complainant or the accused. Within hours of the recommendation, the governor or the administrative governor issues a decision for the deportation and the detainment of the worker until the deportation occurs.

Any migrant worker with a complaint filed against him will be deported, even if the court exonerates him. Furthermore, he is not given enough time to file a grievance. This is considered a violation of the international conventions ratified by Jordan. Tamkeen lawyers recall many cases when the migrant worker faced deportation just because his employer filed a complaint against him, even if the complaint was filed out of spite. Most of the employers lodge a complaint after their employees file a grievance to the Attorney General. The Attorney General

¹ For instance, check the decisions for the highest court No. 2005/192 issued on June 14th, 2005, decision No. 2002/434 issued on January 28th, 2002, decision No. 1999/348 issued on December 19th, 1999, decision No. 1998/543 issued on March 6th, 1999, decision No. 1998/523 issued on February 23, 1999, decision No. 1997/233 issued on January 3rd, 1998.

refers the case in turn, according to formal procedures, to a police station for the required investigation and consideration of both parties. Unfortunately, the Police Station treats the migrant worker as if he committed the crime.

Forced Labor

All migrant workers, particularly domestic workers, are subjected to exploitation, conditions of forced labor, and human trafficking at the hands of their employers and recruitment agencies; these violations often occur right in front of the Jordanian Authorities. These authorities have not adopted any concrete legislative, administrative, executive, or judicial measures to prohibit the practice of violence against or mistreatment of this category of workers. Jordanian legislation is still incapable of dealing with the problem of forced labor. This legislation does not include provisions that efficiently combat forced labor or redress its victims. The Jordanian Judiciary continues to treat the cases of forced labor as civil labor cases and not as criminal cases that fall under Human Trafficking. Additionally, the Jordanian Legal System leaves female domestic workers at the mercy of employers de facto and de jure. They are not allowed to move from one employer to another without the concession of the previous employer. The issuing of residency permits and work permits is subject to the employer's will, and the employer's failing to issue residency permits or work permits leads to the accumulation of overstay fines. This forces the female workers to remain at their jobs against their will. The accumulation of overstay fine prevents them from returning to their countries until the payment of these fines.

Various practices that are considered indicators of forced labor include:

1. The confiscation of passports. As we mentioned earlier, the confiscation of passports is a common practice among employers against the migrant workers to force them to stay at work.

2. The partial or full withholding of wages. This forces the worker to stay at work waiting for his wages.

3. Forced signatures of financial bonds, particularly with Egyptian migrant workers. The employers force workers to sign financial bonds to guarantee that they will not leave the work.

4. Forcing of domestic workers to continue working after the end of the contractual period. This practice is mostly carried out by recruitment agencies. The employers often seek the help of these recruitment agencies and authorize them to repatriate the workers. However, the agencies keep the worker and force her to work for another employer for a new contractual period.

5. Forcing domestic workers to work in more than one house. Sometimes

the employer considers the domestic worker his property, and believes he has the right to use her wherever and whenever he wants, such as at his relatives' and friends' houses. However, Article 9 of the Domestic Workers Regulation states that it is not permitted to make the domestic worker work in any house other than her employer's house.



Crime of Human Trafficking



Human Trafficking Prevention Act No. 9 of 2009

This is the third Act issued in the Middle East that criminalizes trafficking in humans, preceded by the Emirates Law and the Bahraini Law. The Act was developed to fulfill Jordan's international commitments after it signed the United Nations Convention against Transnational Organized Crime and its Protocols. In this Act, Jordan adopted the definition of human trafficking as stated in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, with only a slight change in some of its vocabulary. When Jordan was ratifying this Act, it emphasized several organizational details at the expense of highlighting the rights of human trafficking victims. In fact, Jordan's ratification of this Act ignored the existence of the rights of victims of human trafficking, most of whom are migrant workers in Jordan. The way Jordan formulated the ratification of this Act made these guaranteed rights mere promises that provide no real legal basis to protect migrant workers or guarantee victims full enjoyment of these rights. This Act will be further examined in the chapter that analyzes the national strategy to combat human trafficking.

An example of these lost rights is the right to legal residency until they receive a final decision on their cases. Residency and foreign affairs law does not include any article that grants permanent residency to victims of human trafficking or migrant workers when they have legal problems. Additionally, there is no article that permits the worker to stay in the country and look for other employment, even being considered a victim of human trafficking.

The language of the Act states that a national committee (or a subcommittee authorized by it) should address the problem of human trafficking. This problem should be handled through reviewing the legislation related to preventing human trafficking and submitting the amendments required by the Act.¹ From a theoretical standpoint, this provision is considered a fundamental provision because the crime of human trafficking influences and causes other types of crimes to be committed. A number of pieces of Jordanian legislation need to be reviewed and reformed so that they are consistent with the Human Trafficking Prevention Act. Since the Act was issued in 2009, none of the related legislation has been reviewed or checked whether it is acceptable according to the

¹ Article 5 of the Human Trafficking Prevention Act.

provisions of this Act. By not reviewing these pieces of legislation, those who want to exploit migrant workers are given the opportunity to take advantage of these gaps, perpetuating the victimization of migrant workers.

The National Committee to Combat Human Trafficking

Based on Article 5 of the Human Trafficking Prevention Act, the committee has nine main duties including the drafting of general policies, reviewing legislation related to the prevention of human trafficking, submitting suggestions to these pieces of legislation, and coordinating between different related governmental and non-governmental entities. This committee consists of a group of institutions concerned about combating human trafficking in the kingdom, making it a coordination mechanism. The Act states that the committee has to coordinate between governmental and non-governmental entities; however, since the committee is already composed of governmental and nongovernmental entities and thus already has a mechanism of coordination, the Act is redundant, and does not add to the protection of migrant workers. The Act should rather state that it will coordinate between the embassies of migrant workers' sending countries to facilitate the return of victims and the aggrieved.

The committee also studies the related national, regional, and international reports, and takes the necessary procedures to implement them. We should pause and reflect on this provision because many national, regional, and international reports and studies are issued periodically and annually; the U.S. State Department's annual Human Trafficking Report that addresses the status of human trafficking in the world is one of the foremost annual reports released. The U.S. State Department report ranks states according to their exerted efforts to combat human trafficking. Even though the report provided observations and recommendations on how to improve the situation of human trafficking in Jordan, the National committee has not mentioned anything about formulating a team to either analyze the observations of the report so as to consider it on the national level to improve the situation or at least to respond to the report's critiques. These reports are highly important when defining the level of the state based on its efforts to combat human trafficking. They also directly highlight the main challenges that the countries face to combat human trafficking, as well as recommendations to improve the condition of human trafficking in each specific country. Studying and analyzing, as well as modifying and applying these observations in coordination with the national level will play a significant role in prompting the efforts to combat trafficking, particularly because they highlight challenges and do not criticize states randomly.

Another duty carried out by the committee is to cooperate with different governmental and non-governmental entities to implement programs that assist in the physical, psychological, and social recovery of human trafficking victims. Keep in mind that this committee is a separated coordination mechanism,

representing either directly or indirectly all the related governmental bodies in the kingdom. Thus this organizational structure should facilitate submitting recovery programs to the victims. This committee does not have to help in fostering cooperation between the institutions because the existence of the committee itself implies that a solid background of coordination, cooperation, and dialogue already exists. The committee should focus its efforts not on fostering internal cooperation, but rather on offering services and programs to trafficking victims.

Generally speaking, the National Committee to Combat Human Trafficking sits on the top of the combating human trafficking structure in Jordan. It has the leading role in guiding and supervising efforts made to combat human trafficking. In order to effectively play a leading role, the committee needs significant support by its members and needs to conduct regular meetings, which should take place every three months according to the stated Act, not every six or seven months as what actually happens now. Although the committee was able to conduct two meetings in 2011 (the first in January and the second in December), the continuous changing of ministries might pose a potential challenge to effective implementation. Since its creation, there is nothing concrete that reflects the effort of the committee.

The National Strategy to Combat Human Trafficking

In 2010, the Ministry of Justice issued a National Strategy to Combat Human Trafficking and defined its framework. The strategy defines its objectives that reflect the vision of the Jordanian Government and the expectations in the area of human trafficking for the period of 2010- 2012. The report also attempts to evaluate what has been accomplished during this period to combat human trafficking by highlighting the indicators that allow concerned parties to benefit from the strategy by modifying and correcting its components and carrying out all the necessary steps for an effective means to combat human trafficking. It is important to pause here and reflect on which aspects of this strategy have been implemented and which have not. Only 25% of the strategy has been accomplished. There is a possibility that this strategy, like others before it, was drafted to throw dust in the eyes and to simply show that the committee is making an effort to combat human trafficking. The strategy will require time and effort to take effect. However, if this strategy is not carried out, all efforts will have been in vain, and perhaps it would have been preferable to invest the effort in a more practical endeavor.

Below are the components of the strategy:

The First Component: Prevention

The First Strategic Objective: Drafting General Policies to Combat Human Trafficking

The related framework is outlined in several sub-strategies, including;

1. Evaluating the status of human trafficking in Jordan, reviewing the national measures through conducting related periodical reports and studies, and improving the electronic database of the Directorate of Domestic Workers in the Ministry of Labor to reflect the current demands of the labor market according to the latest updates. This will occur by providing an electronic link between Ministry of Labor and Ministry of Interior that issues the recruitment approvals to domestic worker, as well as another electronic link between the Ministry of Labor and the national borders.
2. Suggesting new legislation and amending existing ones regarding human trafficking by means of issuing the necessary recommendations to enforce the Regulation of Organizing the Domestic Workers Recruitment and Employment Agencies. In addition, studying the related national legislations and treaties to combat human trafficking and adapting them with other related legislations of the international conventions and treaties. Suggesting the necessary legislation related to work and residency permits.
3. Benefitting from the best practices to combat human trafficking by preparing research studies about the best practices of pioneering countries in standing up against human trafficking. Activating the Domestic Workers Regulation system. Setting the standards of classification for recruitment agencies.
4. Adopting prevention policies to stop child trafficking and exploitation. This can be achieved by designing a program that monitors the entrance of children into the kingdom and where they reside in it. A program that prohibits child labor and child exploitation likewise needs to be created and implemented.

Taking a quick glance at what has been achieved so far in these two and a half years, we notice that the only strategies from this plan that have been established are the electronic link between the Ministry of Labor and Ministry of Interior, the issuance of the necessary instructions to put in action The Regulation of Organizing the Domestic Workers Recruitment Agencies, and the campaigns that prohibition of child labor. With respect to the rest of the activities stated in the strategy, nothing was accomplished and there was no clear indication showing that they will begin to implement these activities.

Even though it is the first objective stated in the strategy and the first step that needs to be taken to combat human trafficking, the

evaluation of the status of human trafficking in Jordan is still under the consideration of the related institutions.

With respect to legislation that addresses combating human trafficking, we have not noticed any review or assessment to know whether the provisions stated in the legislation go in accordance with or contradict the Human Trafficking Prevention Act. No practical steps to assess the efficiency of applying the Human Trafficking Prevention Act have been taken throughout these two years. Furthermore, no research, study, survey, or evaluation about applying the law has been prepared; this may be due to the fact that the law is not applied adequately.

Generally speaking, no reports, research studies, or policies that focus on developing a strategy to prevent child labor and child exploitation were prepared or adopted.

The Second Strategic Objective: Raising Awareness

The framework in this field was defined by several sub-strategies, including;

1. Establishing awareness programs for different sectors based on religious and ethical values by preparing related awareness brochures and leaflets under the supervision of The National Committee to Combat Human Trafficking. This sub-strategy also coordinates with the Ministry of Awqaf and Islamic Affairs and the heads of the churches to include the topic of human trafficking in their preaching. Additionally, the sub strategy will create a website for the National Committee to raise awareness regarding preventing human trafficking. The committee will use particular slogans and prepare awareness campaigns and guidance for domestic employers, domestic workers, recruiting and employment agencies. The committee will publish programs through a variety of media outlets such as radio, newspapers, and television to combat human trafficking. They will hold "Police Friends" sessions that include raising the participants' awareness about human trafficking. The committee will also coordinate with the Ministry of Education and vocational training centers to conduct awareness campaigns related to the issue of human trafficking in addition to special awareness campaigns in industrial facilities.
2. Promoting the role of civil society organizations (CSOs) and non-governmental organizations (NGOs) to raise awareness regarding the prevention of human trafficking in all of its forms. This strategy will be carried out through coordination to establish training programs by CSOs and related

organizations to raise awareness about human trafficking. The committee will also create one day each year dedicated to opposing human trafficking.

3. The inclusion of the Human Trafficking Prevention Act and related legislation in the curricula of law faculties, specialized national institutes, bar associations, and related training courses. This will be carried out through coordination with public and private universities, specialized national institutes, and bar associations in order to include the Act and related legislations in their training programs.

However, as ambitious as this campaign is, the question that must be asked is how many of these strategic objectives have been carried out? Not even 30% of the campaign has been achieved, with only 20% having been achieved on the governmental level. The little that has been achieved was through several publications released by the Criminal Investigations Unit from the Department of Human Trafficking. The publications announced the hotline in the Criminal Investigation Unit as well as the "Police Friends" sessions. Lately, awareness raising publications for domestic workers has been published in their native languages in cooperation with Tamkeen Center, the Public Security Department, and the Ministry of Labor. Other than those, none of the programs mentioned in the strategy have been implemented. There are still many unfulfilled promises, and the little that has been achieved has had no concrete effect on the current situation.

Awareness campaigns play a large role in the prevention of human trafficking crimes on both the societal level and the migrant workers' level because the information contributes to alerting the individual about the nature of these crimes, avoiding these crimes, identifying the mechanisms of reporting these crimes to the police, and assisting the victims.

Through our experience as a CSO, we find that means of cooperation are available. Although the first step always comes from the CSOs, these CSOs are never invited to any of the National Committee's meetings, nor are the minutes from these meetings ever published. Additionally, The National Center for Human Rights, which should act as a representative body for the CSOs, has never tried to coordinate between the active CSOs who work in this field. Finally, we have not noticed any signs that efforts have been made to establish a day against human trafficking.

With regards to the inclusion of the Human Trafficking Prevention Act in the curricula of law faculties, no steps have been taken to implement this strategy on the practical level. Rather, many people in the field of law are unaware of the existence of this Act.

The Third Strategic Objective: Specialized Training Preventing Human Trafficking that Targets Concerned Parties.

The framework for this field was outlined through several sub strategies, including:

1. Setting out a general framework for the content of training program according to the targeted purpose of the training and working on updating these programs in the light of new developments. To achieve this objective, a national training team will be created in the field of human trafficking and will target prosecutors, administrative governors, and investigators in the Public Security Department and inspectors in the Ministry of Labor. This team will work on establishing the training program to combat human trafficking. In particular, the program will include an introduction to the Human Trafficking Prevention Act, a means of identifying the victims and those affected by human trafficking, international coordination in this field, and services provided for the victims and those affected.

The work in this field was carried out by CSOs and international organizations. In this regard, we can say a considerable portion of this strategy was accomplished, even though there was no noticeable coordination to establish a training program for such a purpose. Mostly, these training courses are carried out in cooperation with national and international NGOs according to the training plans drawn up by these NGOs.

Furthermore, Training of Trainers (ToT) courses have been held in cooperation with the American Bar Association in 2010. There was also the creation of a national training team in the International Organization of Migration (IOM) in 2011.

The Second Component: Protection

The first strategic objective: Identifying victims of and those affected by human trafficking

The framework in this field was outlined through several sub strategies, including:

1. Determining mechanisms for identifying victims and those affected by human trafficking in accordance with the international standards, by conducting studies and reports about the techniques that human traffickers use at each stage of the crime. Recruiting experts should be stationed at border checkpoints to identify victims and those affected by human trafficking. Raise the capacity of employees in the Ministry of Health to recognize the victims of human trafficking.

2. Designing and implementing training programs for law enforcement entities and CSOs which specialize in the procedures for recognizing victims and those affected by human trafficking and how to treat them appropriately. Establishing a ToT program for the law enforcement entities and related CSOs.

In reality, the difficulty in recognizing and identifying the victims still exists. The border administrators and health workers conduct their job robotically. Although several NGOs conducted training programs with law enforcement entities about how to identify trafficking victims, these law enforcement entities have yet to recognize these victims.

It is worth noting that these mechanisms established in cooperation with the IOM are still under discussion and consideration by the relevant institutions. Moreover, a national team was established to investigate suspicion of human trafficking in the field. This team is in its fledgling stage and needs support in order to reach its full capacity and fulfill the desired results as outlined at its establishment. This team has still not concretely affected the current situation. Its work has not been evaluated and its ability to recognize victims has not been tested. Naturally it is important to evaluate the team's performance and to enhance its ability to achieve its objectives. It is notable that this team lacks female members, who are particularly essential for treating women and children victims. Generally speaking, the related governmental entities have carried out considerable improvements to achieve this strategic objective. However, these steps are still untested.

The Second Strategic Objective: Protecting and Supporting Victims and Those Affected by Human Trafficking

The framework in this field was defined by several sub-strategies, including;

1. Protecting and supporting victims and those affected by human trafficking through establishing a special program of sheltering units for victims, and

creating a database system for these sheltering units.

2. Facilitating the process of reporting cases of human trafficking by activating the hotline's around-the-clock services to provide counsel and guidance to the victims and those affected. Moreover, there is an additional hotline available at The National Center for Human Rights that provide translation services.

3. Preparing qualified personnel for the Shelter Unit to provide guidance and counseling to victims and those affected. It will be achieved through recruiting qualified and specialized personnel, and training them to support the victims and those affected. These tasks will not only be able to provide the victims and those affected with distinguished services, but also will establish physical, psychological, and social recovery programs. These programs will empower the victims and those affected in a safe environment and integrate them in their original societies. The personnel should also be able to provide legal and financial assistance to the victims and those affected. The hotline should be enabled to provide legal counseling as well.

4. Providing the victims and those affected with the required documents and identification papers to correct their legal status. This will be carried out through the issuance of temporary work permits and residency permits until they return willingly to their home countries or to any other country they choose that accepts them. This will be done through conducting a study about issuing temporary work permits and improving the service of issuing work and residency permits all on one card.

5. Ensuring that the media respects the privacy of the victims and those affected when addressing the topic of human trafficking through issuing a circulated note to media outlets that highlights the necessity of protecting trafficking victims' privacy.

A Regulation for Shelters was issued in March 2012. This is the only step adopted to found Shelter Units. No database was found, no trained personnel were found, and the protection procedures still lack their main components.

The Ministry has a hotline, but it can only be accessed during work hours. After work hours, it switches to the answering machine. In this case we cannot call it a hotline, even though translation is available. The National Center for Human Rights has no special line to report human trafficking crimes. The only hotline available 24 hours is the hotline of the Public Security department, but the problem is that it does not provide translation service. Generally,

there is a lack of translators who speak the languages of the migrant workers. The National Committee has not taken any serious steps to provide translators.

As for offering psychological, legal, and social assistance, none of the aforementioned sub strategies were implemented. The only steps were made by NGOs, such as The Jordanian Women's Union (JWU), Adaleh Center for Human Right Studies, and Tamkeen Center for Legal Aid and Human Rights, in addition to the efforts of the IOM to rehabilitate the victims.

In one case, temporary residency permits were issued for nine domestic workers. The process of providing identification documents usually takes places in coordination with the embassies of the migrant workers' countries. These embassies play the major role in issuing passports to their subjects. These passports are essential in issuing work permits and nationality permits for the victims. It should be taken into consideration that the law and the governing instructions do not address the rights of the victim to reside and obtain new work permits, which is a pressing lack in the victims' protection. It did not take any serious step to improve the service of providing the residency and work permit as one document.

Until now, the committee has not held any informative program for journalists about the crime of human trafficking.

The Third Component: Prosecution

The First Strategic objective: Strengthening the Rule of Law, Finding the Specialized Judiciary and Establishing Specialized Judicial Chambers

The framework in this field was outlined through several sub strategies, including:

1. Enhancing the capacity of the workers in the judiciary and the public prosecution to ensure the application of law and taking the required steps to prosecute the perpetrators of human trafficking to ensure the protection of witnesses in these cases. This will be achieved through conducting training courses for the judges and the members of the prosecution concerning human trafficking cases, in addition to educating the specialized judges in trafficking cases about how developed countries have handled these cases of human trafficking and settings rules to protect the witnesses.

there is a lack of translators who speak the languages of the migrant. In fact, this is a subject that requires a thorough and elaborate study due to its ramifications stemming from practical experience, whether related to the enforced legislation or the practical application. In spite of the training courses which were conducted by the CSOs and the international NGOs for the judges and public prosecutors, there still remains a misunderstanding concerning the crime of human trafficking and the extent to which it overlaps with other crimes, such as the confiscation of passports and sometimes the labor rights. Practically, we do not notice any adequate judicial implementations or verdicts of any worth related to human trafficking (unless we include organ trafficking cases which had many verdicts issued). Unfortunately, the Jordanian legislation still lacks the legal provisions to protect witnesses.

The Second Strategic Objective: Establishing a Qualified and Specialized Executive Body in Combating Human Trafficking

The framework in this field was outlined through several sub strategies, including;

1. Finding a legal framework for the Combating Human Trafficking Unit, establishing a database system for the unit by setting up an organizational framework that governs the unit's work, and establishing a local and international database for human trafficking.

Until today, a Combating Human Trafficking Unit does not exist in the related institutions. What exists now is the Department of Human Trafficking in the Public Security. The Department was established in 2008 before the passing of the Human Trafficking Prevention Act. It is almost the only body that works seriously in investigating human trafficking cases. Its only problem is the lack of enough women on its staff. This is a problem because women are essential for interviewing female victims and children.

Through reviewing the website of the General Budget Department and the Ministry of Labor, we found that there is a program under the name of the Combating Human Trafficking Unit in the Ministry of Labor. It was supposed to be established and working in 2011, but until the drafting of this report (one and a half years), no practical steps have been taken to establish this unit. However, 600,000 JD

has been allocated for the unit from the beginning of 2011 until the end of 2013. Thus, the excuse of a lack of funding, the excuse that many governmental institutions point to, does not apply in this particular case.

The Fourth Component: Establishing partnerships and cooperation on the local, regional, and international level; Promoting Transparency.

The First Strategic Objective: Promoting Transparency and the Path to Partnership and Cooperation

The framework in this field was outlined through several sub strategies, including;

1. Promoting channels of communication between governmental entities, the non-governmental organizations, and international organizations, to deal with cases of human trafficking without compromising the privacy of the parties. These channels will be implemented through holding discussion panels between both governmental and non-governmental organizations about how to handle cases of human trafficking, all while allowing both non-governmental and international organizations to have access to the reports and all available information provided by governmental institutions related to human trafficking. Additionally, all the necessary information about human trafficking shall be made available on the official website of the National Committee for the Prevention of Human Trafficking.

Cooperation already exists between governmental, non-governmental, and international organizations regarding the sharing of information about human trafficking. Yet the process of coordination and cooperation between both governmental and non-governmental organizations is based on the initiatives coming from one of the two parties. There is no institutional framework that organizes this relationship. The same issue is found in coordinating between the National Committee and the related parties, particularly NGOs.

The official website of the National Committee for the Prevention of Human Trafficking is still undeveloped. It only includes the slogans of the different bodies of the National Committee, and the text of the National Strategy. It does not include any useful information or raise awareness about the crime of human trafficking or indicators of

human trafficking. If we compare this website with the websites of National Committees from other countries that combat human trafficking, we find Jordan's is extremely lacking. For example, the website of the United Arab Emirates includes a substantial amount of guidance and information as well as how to report any case that resembles human trafficking. It also includes information that defines this crime.

The Second Strategic Objective: Local, Regional, and International Cooperation

The framework in this field was outlined through several sub strategies, including;

1. Promoting local, regional, and international cooperation, enacting channels of communication, and exchanging information and knowledge by the drafting of mutual agreements calling for cooperation of two or more parties. These agreements are essential for the exchange of information and knowledge about the perpetrators, victims, and those affected by human trafficking. Additionally, the agreements call for cooperation in the field of human trafficking and the signing of memoranda of understanding with the involved countries regarding the regulation of the entrance of domestic workers into Jordan. Coordinating among the Arab countries to draft a unified agreement to prevent human trafficking and to prepare a unified Arab strategy to prevent human trafficking. Finally, to improve the electronic database in the Directorate of Domestic Workers in the Ministry of Labor in order to establish an electronic link between the Directorate of Domestic Workers and the migrant workers' respective embassies in Amman.

2. Coordination and cooperation with the diplomatic missions inside and outside the country to spread information about preventing human trafficking and related legislation. This can be carried out through preparing brochures and leaflets that aim to make foreign workers aware of the issues of human trafficking. The strategy also intends to distribute awareness programs about human trafficking in Jordanian embassies around the world by sending emails to Jordanian subjects abroad.

With the exception of brochures published by the Directorate of Public Security, no other measures have been adopted to spread awareness about the issue.

Jordan has just participated in regional workshops that were organized by international organizations within Jordan. We have not

noticed any ratification to conventions of memoranda of understanding between two or more countries in the region regarding exchanging information and knowledge with the diplomatic missions inside the kingdom who still need more support and organization to fulfill the intended objectives. It also did not take any practical step to publish awareness programs in the Jordanian embassies in the sending countries.

The following is an example that shows the lack of cooperation between the Committee and the migrant workers' respective countries. This lack of cooperation promotes human trafficking crimes and creates a special environment for this crime. In 2008, the Philippines banned its subjects from working in Jordan as domestic workers, just as Indonesia did in 2010. In spite of this, the Jordanian Ministry of Labor continued issuing approvals and the Ministry of the Interior continued issuing visas. This led to domestic workers being brought to Jordan illegally through a third country. The most significant example of this is the case of thirty-three Indonesian domestic workers who illegally entered Jordan when they were between the ages of thirteen and seventeen years old. They were discovered. Surely there are many others like them. Moreover, there are many workers who have been deceived about both the country and the workplace in which they work. Additionally, no information is available concerning these workers in the embassies due to their entry into the country during the ban. Although the National Committee to Combat Human Trafficking knows about this case, it did not take any practical step to either protect the victims or prosecute the offenders.

The National committee has achieved less than 25% of its objectives, as outlined in the National Strategy to Prevent Human Trafficking, which will expire at the end of this year (2012). This percentage is considerably low in comparison with other countries in the region that have created similar strategies to combat human trafficking after Jordan. Moreover, these countries have advanced further than Jordan.



Tamkeen Center for Legal Aid and Human Rights Comments on the crime of human trafficking in Jordan



Throughout its work and efforts to address the conditions of migrant workers in Jordan, Tamkeen Center for Legal Aid and Human Rights has observed that the violations migrant workers are subjected to have reached the level of human trafficking. Many indications clearly indicate that workers are exposed to forced labor. In this and previous reports we have referred to the types of violations to which migrant workers are exposed. Some of the prominent indicators are:

1. Confiscation of passports.
2. Threatening with harm, deportation and detention by employers.
3. Forced confinement of domestic workers.
4. The system of sponsorship that allows the employer to have a high degree of control over the worker by making the employer responsible for issuing work permits and residency permits.
5. Withholding of salaries, verbal abuse, physical abuse, and psychological abuse against migrant workers.

Some governmental practices promote trafficking. In this report we provided details about some of these practices, such as the 'Police Notification' (report of absconding) that prevents victims from accessing justice. The 'Police Notification' also stops victims from reporting any violations they suffer because if they file a complaint with the police, they will be detained. The long duration of investigation and trial, as well as the absence of recovering programs and the lack of shelter for victims, depress victims and make them easy prey for the offenders. In turn, this treatment (or lack thereof) makes it easy to convince the victim to give up his or her rights, and allows for the impunity of the offenders.

Champika is a Sri Lankan domestic worker



who came to Jordan and worked for an employer for 9 years. During this 9 year period she only received salaries for four months work. She has been deprived from contacting her family and has only ever been allowed to leave the country when accompanied by the employer. Her passport was withheld, and her employer did not obtain either a work or residency permit

for her. This led to the overstay fine accumulating. Champika 's mother contacted the Sri Lankan embassy in Jordan, who in turn reported Champika 's case to the police. The police brought the domestic worker from the employer's house and took her to the embassy shelter. She then came to Tamkeen center seeking assistance. Her complaint was filed with the General Attorney who referred the case to the CID to investigate her claims and contact the involved parties. The CID found that there was a previous complaint filed against the same employer regarding the confiscation of passport. The employer was outside the country at the time, and is wanted by the police because there are other complaints filed against him. The case was sent back to the general attorney who decided to stop the prosecution of the employer.

Melar is a Sri Lankan domestic worker



who was recruited to work in Jordan on May 16th, 2007. She worked in a house for two years. The employer tried to force her to have a new contractual period, but she refused and left the house. A person found her in the street, and claimed that he could issue both a work and a residency permit for her. He took her to his house, confiscated her passport, forced her to work in many houses, and seized all her wages. Through Tamkeen, Melar filed a complaint of Human Trafficking with the Attorney General, who then referred the case to Amman Criminal Court. The court discharged the suspect of human trafficking, and decided not to compensate the worker.

Radika is a Sri Lankan domestic worker



who came to Jordan in 2002 through a recruitment agency. The recruitment agency made her work in multiple house for more than two years without paying her any salary. The agency also confiscated her passport. After these two years, the recruitment agency sent Radika to an employer for whom she worked for five and a half years. She only received salaries for two years. No one obtained a work or residency permit for her throughout this whole period, which led to accumulated overstay fines.

She filed a complaint with Amman's General Attorney against the recruitment agency. The general Attorney referred the case to the CID to investigate and contact the different parties. The CID sent the case back to the General Attorney, who then forwarded the case to the criminal court of Amman, considering it to be a case of human trafficking. The criminal court of Amman found the recruitment agency not guilty of human trafficking.

Jeewanti and Kumari are Sri Lankan domestic workers



who were recruited by a recruitment agency. This agency confiscated their passports and forced them to work in different houses. The agency seized their wages for three years and did not issue work permits or residency permits for them, leading the overstay fine to accumulate. This fine, the working conditions, and their confiscated passports put pressure on them. They filed a complaint of human trafficking to the Attorney General of Amman, who then referred it to the court. The court discharged the agency, since the court considered the complaint an issue of labor rights, not Human Trafficking.

Jeewanti and Kumari are Sri Lankan domestic workers



Eight Egyptian workers were recruited to work as farm workers in Jordan. Their employer withheld their passports as well as their salaries. In addition, they were subjected to different forms of poor treatment by their employer, such as verbal abuse and physical violence. The employer used to force the workers to work for a period between twelve and sixteen hours per day. He also used to force them to wake up in the middle of the night to steal water from the nearby reservoir. The workers suffered from burns on their hands and feet. The employer used to deny their right for a weekly day off. The workers filed a complaint with the CID. After an investigation of the complaint, their case was referred to the General Attorney of the North Valley. The General Attorney determined that the employer was most likely guilty of the crimes stated in the worker's complaints, so he sent the case to

the courts to consider the employer guilty of the following crimes:

- * Withholding of passports
- * Physical abuse, insult, verbal abuse and humiliation
- * Threats
- * Insulting the divine self
- * Withholding of salaries/not paying salaries

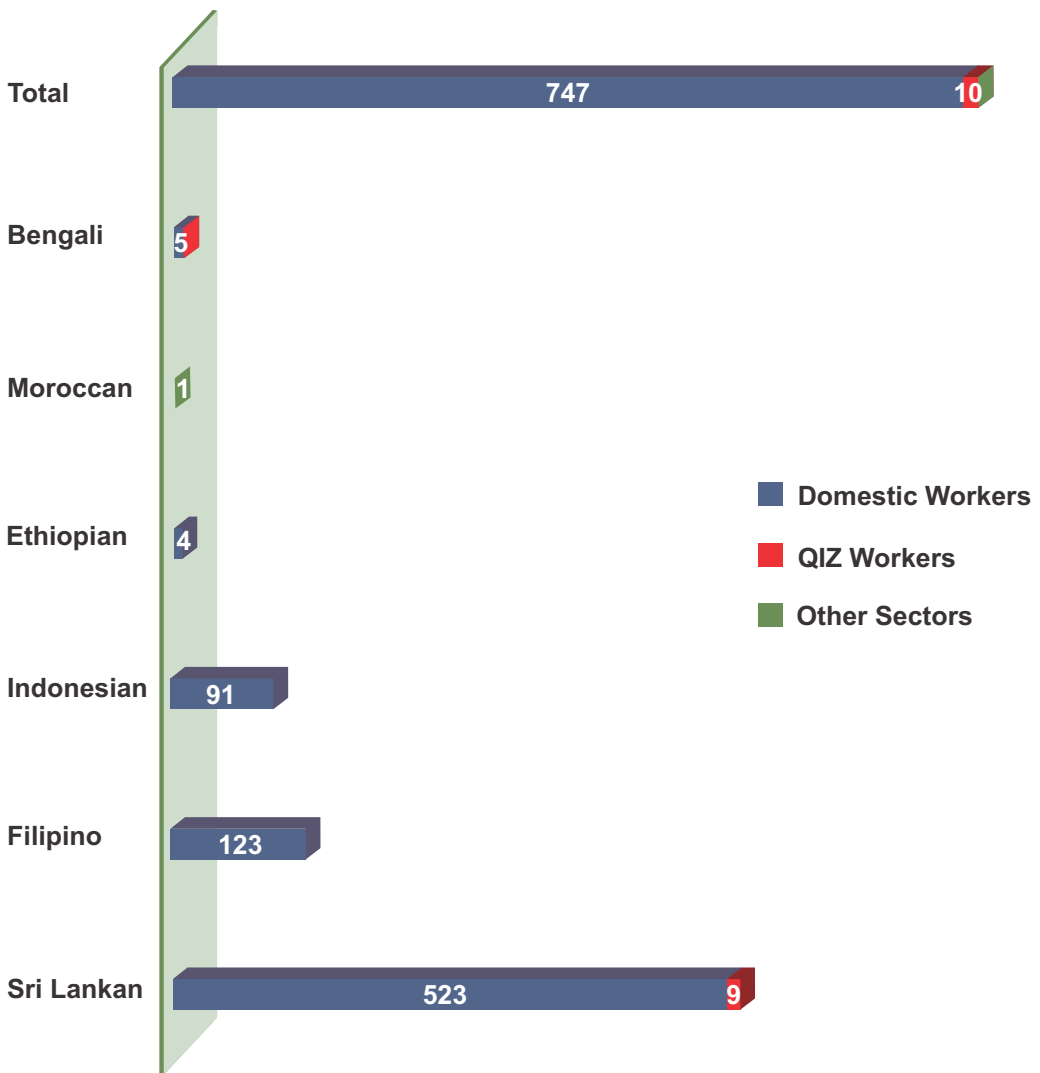


Annex of the complaints received by the legal unit in Tamkeen Center for Legal Aid and Human Rights

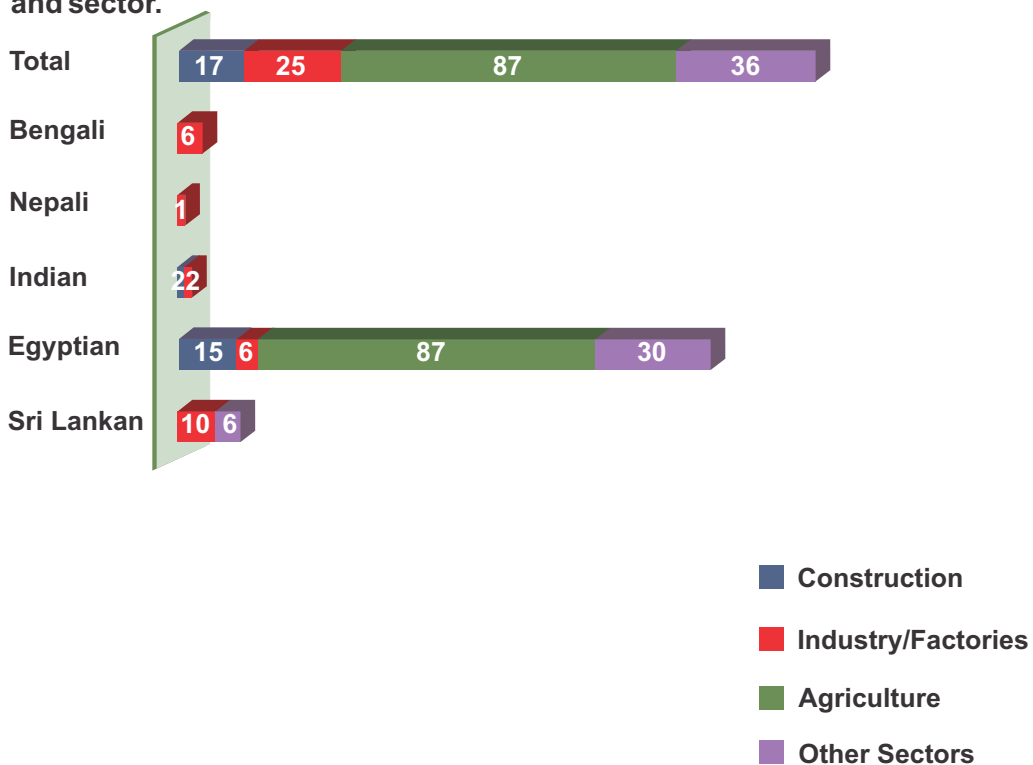
From January 1st, 2011 until June 30th, 2012



The following graph presents the complaints of female migrant workers filed to Tamkeen Center for Legal Aid and Human Rights based on nationality and sector.



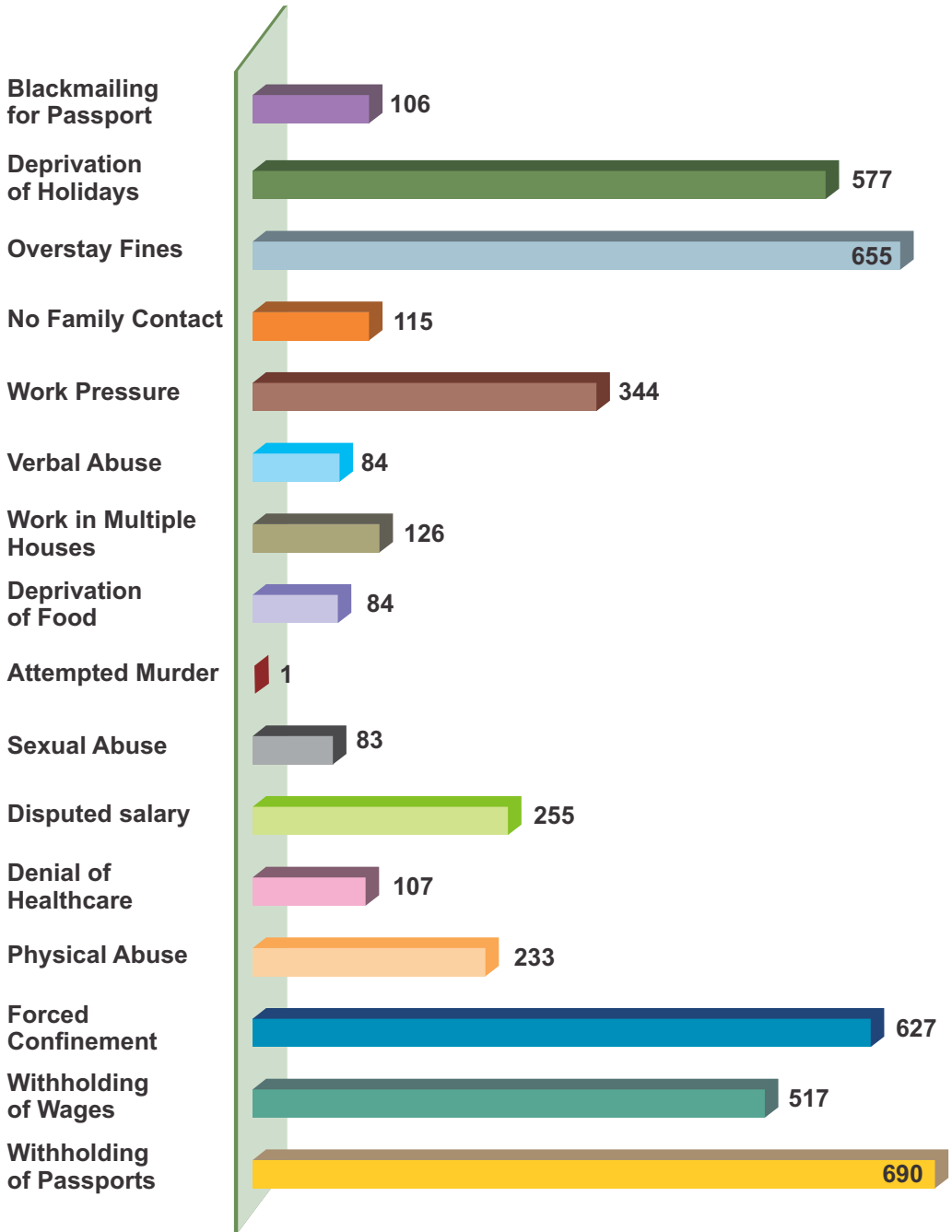
The following graph presents the complaints of male migrant workers filed to Tamkeen Center for Legal Aid and Human Rights based on nationality and sector.



Number of group complaints: 8 complaints from migrant workers in the QIZ who carry different nationalities

Classification of the complaints received by Tamkeen Center for Legal Aid and Human Rights

"The worker might be subjected to more than one type of violation"



Workers of the world, Unite!

Karl Marx
German philosopher, politician and Sociologist

**You may be able to extract rights,
but you can not give what belongs to all people.**

Thomas Paine
British journalist, revolutionary and inventor

**If the master has not been ruled justly
between worker, wrote of oppressors.**

Hasan al Basri
Muslim jurist

Humiliation in the name of right is pride.

Mohammed Abdo
Egyptian cleric

**Underestimated person's mind and despised to the lack of money,
while he is an intelligent.**

Ali Ibn Abi Talib
Arabic Khalifa, philosopher, and Sahabi



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