

A Review of the Jordanian Framework Governing Foreign Workers

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ABSTRACT As Jordan continues to experience an increasing influx of foreign workers in the country due to political issues arising in neighbouring countries and Jordan's strategic position, it was deemed necessary to provide a review of the current framework governing foreign workers and to demonstrate any issues in the current legislation. In this article, the author used the descriptive analysis approach to provide a summary of the labor migration status in Jordan, The International framework that Jordan adheres to, the national laws and regulations in place to regulate foreign workforce, in addition to providing a critical analysis of the Kafala system in Jordan and reflecting on the issues it raises. The author concluded that Jordan's current laws prohibit foreign workers from forming trade unions, or take leadership positions in any trade unions, contradicting the international guarantees provided by human rights conventions, additionally the author has shed a light on the consequences of implementing the Kafala (sponsorship) system.

KEYWORDS *Migrant Workers, Jordan Labor Law, Labor Migration, AlKafala System, Labor Migration in Jordan*

Introduction

The Hashemite Kingdom of Jordan (Jordan) is a country in the Middle East that is home to many migrant workers, forced migrants, and refugees. That is due to its location and ongoing instability in the Middle East region in comparison to neighbouring countries. Despite not being a wealthy nation, Jordan offers relatively higher wages, and more employment opportunities compared to many of its neighbours and offers a wide range of sectors for migrant workers to take part in, domestic and agricultural. Thus, labour migration and foreign workforce have become a crucial aspect of Jordan's socioeconomic landscape. In consideration of the variety of foreigners in Jordan having settled in the country due to different circumstances, the term "foreign workforce" is used rather than the narrower classification of "migrant workers".

Labor migrants and foreign workforce are generally vulnerable to exploitation, poor working conditions, and harsh treatment and it became crucial to shed light on the many issues they face and the structure of legal regimes that govern them.

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The author aims to use the descriptive analysis approach to provide an overview of current trends of migration in Jordan, the framework governing foreign workforce and labor migrants and lastly, discuss the “Kafala” system, which has sparked concern for its impact on the employer-worker relationship in recent years. The author in concluding this article shall identify and recommend pathways for the Jordanian legislator to improve the protection and the rights of the foreign workforce in Jordan.

1. Migration Trends in Jordan

During the 1970s, many Jordanian workers began migrating to Gulf Countries to work in oil production industries, resulting in a labor shortage. This opened the door to a high influx of foreign labor force to fill the gap.

The bloom of the garment sector in Jordan has also attracted foreign labor. In 1998, an agreement between Jordan and the United States of America granted Jordan the privilege to export clothing to the U.S. without being subjected to customs duties or taxes. Thus, a high influx of foreign labor force was needed to fill jobs in the garment sector. Recent statistics show that the Qualified Industrial Zones in Jordan have a workforce of approximately 58,057 migrant workers.¹

Furthermore, Jordan has witnessed big waves of forced migration due to its strategic position and the political situation in neighbouring countries, such as Palestine and Syria. Accordingly, Jordan has become a host to an approximate number of 3.5 million migrants and refugees, consisting of 31.5% of its population.² Due to the political and financial circumstances in the region and Jordan’s position, Jordan’s labor market hosts a great number of foreign workers, whether they come for labor migration, such as Egyptian workers, or forced migration such as Palestinians, or entering as refugees, such as Syrians. According to the Ministry of Labor, the foreign workforce counts for more than 333 thousand registered foreign workers. Whereas Egyptian labor represents the highest percentage at (54.1%), followed by Bangladeshi labor at (12.9%), and Syrian labor ranks third at (8.5%).³

A high percentage of the jobs undertaken by the foreign workers in Jordan are not considered “high-skilled jobs.” Rather, they take up employment mostly in low-skilled jobs requiring physical labor. This can be attributed to educational and qualification issues, as noted in a study conducted in 2014, the vast majority

¹Tamkeen for legal aid and human rights, “Conditions of Migrant Workers in Qualified Industrial Zones,” (2023), 5. <https://dashboard.tamkeen-jo.org/wp-content/uploads/2024/01/Conditions-of-Migrant-Workers-in-Qualified-Industrial-Zones.pdf>.

² United Nations Economic and Social Commission for Western Asia, “Analysis of international migration in Jordan,” (2023), 11. <https://www.unescwa.org/sites/default/files/pubs/pdf/analysis-immigration-situation-jordan-2023-arabic.pdf>.

³ Economic and Social Council of Jordan, “The Fourth Industrial Revolution and the Jordanian Labor Market,” (2023), 102. <https://www.esc.jo/ReportView.aspx?Id=156>.

of foreign workers hold only a secondary education (high school) diploma or less⁴. Concentration for foreign labor force in Jordan is found in the garment, agricultural, construction, tourism, and domestic industries. Thus, it is found that the immigration phenomenon of Jordan is rooted in the availability of a foreign workforce willing to accept jobs not favorable to Jordanians due to low wages, poor working conditions, and minimal requirements⁵.

As Jordan hit high unemployment rates due to the high influx of foreign labor force, this led to the adoption of a protection policy in 2007⁶. A National Employment Strategy⁷ was adopted and reflected the need to effectively change the situation of relying on foreign laborers, the nationalization of jobs and using foreign workers as a complementary workforce only in specific sectors, such as the garment and domestic sectors.

Accordingly, Jordan has limited specific professions to nationals under the category of “Closed Professions” such as office and secretary jobs. Those strategies can be seen in many decisions taken by the Jordanian government, for instance, the Prime Ministry decision limiting foreign recruitment except for domestic workers, workers in the agricultural and garment sectors, and specialized professions.⁸

2. National Migration Policies and Framework in Jordan

Officially, Jordan does not have a national policy on labor migration. This can be attributed to the fact that migration to Jordan is considered temporary and is merely a response to the needs of the national economy, which is protected from foreign competition in general, as discussed and indicated in this article previously.

All matters relating to the entry and stay of foreign workers are regulated in accordance with Law No. 24 of 1973 on Residence and Foreigners’ Affairs, other matters concerning the issuance of work permits are regulated depending on the sector or the nationality of the worker as the case may be, in accordance with:

⁴ Ababneh, Abdallah and others, “Foreign Labor in Jordan: Analysis of Reality and Replacement Policies,” Natioanl Center for Human Resources Development, (2024), 23, <http://www.almanar.jo/ar/documents/Foreign%20workers%20study.pdf>.

⁵ International Labor Organization, “The Jordanian Labour Market: Multiple segmentations of labour by nationality, gender, education and occupational classes,” (2015), 4. <https://www.ilo.org/publications/jordanian-labour-market-multiple-segmentations-labour-nationality-gender>.

⁶ International Labor Organization, “Migrant Domestic and Garment Workers in Jordan: a baseline analysis of trafficking in persons and related laws and policies,” (2017), 1 <https://www.ilo.org/publications/migrant-domestic-and-garment-workers-jordan-baseline-analysis-trafficking-0>.

⁷ National Employment Strategy (2011-2020) https://www.nchrd.gov.jo/NEStrategy_En.aspx.

⁸ Prime Ministry of Jordan Official Website, (2023). <https://pm.gov.jo/Ar/NewsDetails/aneews601>.

i) *The Instructions for Conditions and Procedures for the Employment and Recruitment of Non-Jordanian Workers for 2012 and their amendments*, ii) *Instructions for the Conditions and Procedures for the Recruitment of Non-Jordanian Workers in Qualifying Industrial Zones for the year 2007 and their amendments*, iii) *Instructions for the Conditions and Procedures for the Employment of Non-Jordanian Workers of Syrian Nationality for the year 2020 and their amendments*, in addition to iv) *The Regulation of Work Permit Fees for Non-Jordanians for the year 2019 and its amendments*.

As demonstrated above, the regulations concerning the foreign labor force in Jordan are fragmented among different laws, regulations, and instructions. In this part, the author will provide an overview of the legislations that govern the relationship between foreign workers and their employers based on the work type.

2. 1 The Jordanian Labor Law

The key regulation governing the relationship between foreign workers and their employers is the Jordanian Labour Law⁹. The law applies to both national and foreign workers without distinction. The law previously excluded domestic and agricultural workers from its application. However, in 2008 an amendment came into effect and stipulated their inclusion under the provisions of the law,¹⁰ although, in accordance with Article 3 paragraph (b) of the law, their employment is subject to provisions that govern it, namely “Regulation No.90 of 2009 and its amendments for domestic workers, cooks, gardeners and similar categories”. Concerning foreign workforce, the labor law stipulates in article (12) that employing foreign workers requires issuing a work permit for the worker subject to approval from the Ministry of labour in accordance with the relevant instructions and regulations.

The labor law does not require a written work contract according to the definition used in the law, a work contract can be written or oral and can be proven in any way.

As for the rights of foreign workers, the labor law does not distinguish between them and national workers. Therefore the rules concerning: work contracts, working hours, dismissal, annual leaves, sick leaves, access to justice, and all other provisions in the law and rights afforded apply to foreign workers.

In case of violation of the workers' rights, access to justice and judicial remedies are guaranteed to all workers, including foreign workers who are exempted from legal (court) fees and expenses for the litigation process in accordance with article (137) of the law. However, workers still have to endorse paying for legal representation fees if an attorney is appointed.

⁹ The Jordanian Labor Law No.8 of 1996.

¹⁰ Zoë Jordan and others, “EFFEXT Background Papers – National and international migration policy in Jordan,” Chr.Michelsen Institute, (2023). <https://www.cmi.no/publications/8872-effext-background-paper-jordan>.

The law stipulates that if the worker does not understand or speak Arabic, then a copy of the employment contract must be made in a language the worker understands¹¹ and guarantees the protection of minimum wages. Currently, foreign workers and nationals are both subject to the same “minimum wage” in accordance with the decision issued by the Tripartite Committee for Labor Affairs regarding setting the minimum wage for workers in Jordan for 2023, which concluded that the minimum wage is set at 260 Jordanian Dinars (Approximately 234 euros). However,, the decision excludes workers in the Qualified Industrial Zones (QIZ) in the garment sector, and domestic workers and their likes.

The labor law also allows foreign workers to join trade unions but notably, does not allow them to form a trade union or to take leadership roles.

The social security law No. 1 of 2014 applies to all workers who are not under sixteen years of age without any discrimination as to nationality, and regardless of the duration or form of contract, the nature and amount of wage¹² provided that the wage is not below the minimum wage stipulated in accordance with the law. Thus, including all foreign workers subject to the labor law as previously addressed. However, the social security law stipulates an exemption from application for domestic workers and those alike. The social security provides different types of insurance such as insurance against work injuries, insurance against old age, maternity insurance, insurance against unemployment and health insurance, and counts for retirement benefits.

The law also imposes penalties on any employer who engages in wage discrimination or forced labor, including the use of coercion, threat, fraud, or force against workers, and for confiscating travel documents.¹³

2. 2 Agricultural Workers

The employment of agricultural workers is governed by a specific regulation titled “Agricultural Workers Regulation No. 19 of 2021”. The regulation applies to both foreign workers and national workers and does not distinguish between them.

The regulation sets outworking hours, annual vacation days, overtime compensation, and other matters similarly to the Labor Law. Furthermore, the regulation stipulates that all agricultural workers are subject to the social security law, provided that the employer has 3 or more workers.¹⁴ The regulation, similarly to the labor law, forbids employers from practicing any use of coercion, threat, fraud, or force against workers, in addition to forbidding confiscation of travel documents. In case the employer violates any worker’s rights or the articles of the regulation, the Minister of Labour shall impose restrictions preventing the

¹¹ Article 15, Jordanian Labor Law.

¹² Article 4, Social Security Law No. 1 of 2014.

¹³ Articles 53 and 77, Jordanian Labor Law.

¹⁴ Article 12, Agricultural Workers Regulation.

employer from recruiting or transferring a non-Jordanian agricultural worker to work for him for the period specified by the Minister.¹⁵

The regulation refers to the labor law for all matters not stipulated in the regulation.¹⁶ Therefore the right to join trade unions applies to foreign workers in the same manner stipulated in the labor law as previously discussed.

In addition to the aforementioned regulation, a complementary set of instructions was introduced in 2021, namely “Instructions for inspection procedures for agricultural activities”. As agricultural activities are not the type of jobs most nationals opt for and a high level of foreign workers are concentrated in this sector, it was crucial for the Ministry of Labor to ensure adherence to laws and regulations. These instructions enable labour inspector to gain access to the agricultural facility or agricultural holding to inspect:

- i) working requirements.
- ii) the working environment.

The working requirements include inspecting that the employer is adhering to the rules governing the conditions for employing workers in terms of age, gender and nationality and the requirements for employing non-Jordanian agricultural workers, along side working hours and ensuring wages are being paid.

2.3 Domestic Workers and Their Likes

Regulation No.90 of 2009 and its amendments, which covers domestic workers and their alikes, provides a definition for the term “worker” for the purposes of the regulation as “*the domestic worker, cook, gardener, patient’s companion, or the like who works in the service of the homeowner on an ongoing bases*”.

The regulation stipulates that the work contract shall be “written” according to the form provided by the Ministry of Labour and ensures that a contract in the language of the worker is provided. Furthermore, it imposes obligations on the employer when employing foreign workers such as issuance of a work permit for foreign workers, providing a travel ticket at the employer’s expense for the non-Jordanian worker from his country to Jordan, and obtaining prior approval from the worker’s ministry in case of moving to another country temporarily.

Working hours and vacation days are stipulated in the regulation and must be respected by the employer to ensure that the worker is not overworked. Accordingly, the worker is entitled to a day off during the week, in addition to 14 days of paid annual vacation. Furthermore, inspections can be carried out to ensure adherence to the regulation by an appointed inspector from the Ministry of Labour in case of any complaints raised.

In comparison to the Labour Law and the Agricultural Workers Regulation, it is noted that this regulation does not provide for the right to join trade unions or any similar assemblies, nor any articles concerning forced labor. Even though domestic workers are the most vulnerable category to “passport confiscation” as a security to ensure the worker does not leave or run away as explained by

¹⁵ Ibid.

¹⁶ Article 16, Agricultural Workers Regulation.

employers and recruitment agencies.¹⁷ But, the regulation does not include any provisions on this matter, unlike in the other regulations. Nonetheless, the act of confiscating passports without legal grounds is prohibited under the Passport Law in Jordan.¹⁸ It does not empower the position of the workers that the legislator included a provision in the regulation requiring the worker to inform and obtain permission from the homeowner (employer) before going out or leaving the house. Additionally, it is noted that the regulation does not stipulate the enrollment in social security for this category of workers nor does it mention the applicability of the Social Security Law. In addition to the aforementioned, the author notes that a legislative gap has deprived domestic workers and other similar categories from further labor rights, specifically; arbitrary dismissal, overtime, working during holidays compensation and end of service gratuity.¹⁹ The regulation does not stipulate explicitly that the Jordanian Labor Law shall be applicable to all matters that were not stipulated in the regulation, unlike in the Agricultural Workers Regulation. Therefore the only right arising for domestic workers are those explicitly stipulated in the regulation only, and since the regulation does not mention the topic of arbitrary dismissal and overtime compensation nor the end of service gratuity, then they do not have the right to claim these rights. This interpretation of the law and regulation is deprived from the Jordanian Courts Precedents, including a recent decision in 2024 which rules that “Since the rights claimed by the plaintiff, namely the end-of-service gratuity, compensation for arbitrary dismissal, notice allowance, and compensation for work during religious and official holidays, are not addressed by this regulation, then such rights are not granted to the employee, based on the fact that this regulation defines the rights of persons covered by its provisions, the plaintiffs’ claims for these rights are therefore dismissed due to lack of entitlement.”²⁰ The author here criticises this interpretation of the law and the regulation, and from their point of view, the articles of the Jordanian Labor Law shall apply to them since they are not excluded from the provisions of the law and therefore, they shall be entitled to all the labor rights afforded in the law, specifically considering that domestic workers are more vulnerable to exploitation and are more likely to be forced to work overtime.

Furthermore, the regulation explicitly prohibits offering shelter to any worker who has left their employer or economically exploiting any worker.²¹ While the author

¹⁷ Bayt AlOmal, “The Jordanian Legislative Framework for Migrant Workers’ Rights: Unionization, Social Security, Occupational Health and Safety, and Labor Inspection (A Case Study on Agricultural and Domestic Workers),” (2023), 46. https://files.cdn-files-a.com/uploads/3837866/normal_654769e86ab6c.pdf.

¹⁸ Article 23 para.2, The Jordanian Passport Law of 1969.

¹⁹ The Jordanian Labor Law in article (32) stipulates that “An employee who is not subject to the provisions of the Social Security Law and whose service ends for any reason is entitled to an end-of-service gratuity at the rate of one month’s salary for each year of actual service”.

²⁰ Judgment No. 2842 of 2024 – Jordanian Court of Cassation in its Civil Capacity

²¹ Article 11, Domestic workers, cooks, gardeners, and their alike regulation.

of this article endorses legal protection against economic exploitation, they highlight a concern with the first part of the article, which imposes challenges for organizations or anyone trying to protect domestic workers from abuse. Often times, domestic workers facing severe abuse have no alternative but to flee, yet the article prohibits anyone from sheltering them.

3. AlKafala System in Jordan

AlKafala (Sponsorship) system is a legal framework used in Jordan, Lebanon and Gulf Cooperation Countries to control the recruitment and hiring of migrant workers and ties the worker to a sponsor (employer) whom they depend on, which often leads to workers abuse and exploitation.

The legal basis of this system stems from The Jordanian Labour Law that prohibits the recruitment or employment of any foreigner without the issuance of a work permit²² and The Instructions for Conditions and Procedures for the Employment and Recruitment of Non-Jordanian Workers for 2012 stipulates the procedures for the issuance of the work permit, whereas the employer shall submit an application to the Ministry of Labor for the issuance of the permit and pays the associated fees for the work permit calculated depending on the sector and profession. Accordingly, the foreign worker shall only be tied to one employer.

The instructions restrict the mobility of the worker and changing their job during their work with the employer in accordance with article (12) of the instructions which impose the following:

After the expiration of the work permit

- i) recruited and/or employed domestic workers are not allowed to switch to any other sector.
- ii) Agricultural workers may switch to another employer in the same sector.

During the term of the work permit:

- i) workers in the construction and agricultural sector may switch employers by agreement between the employer and the new employer subject to the Ministry's approval. In this case, the new employer shall cancel, issue, and pay for a new work permit.
- ii) Recruited workers in the other sector may change employers only after six months of working for the employer, subject to the employer's approval and the new employer shall cancel, issue, and pay for a new work permit.
- iii) Employed workers may switch employers without any restrictions, subject to the employer's approval. The new employer shall cancel, issue, and pay for a new work permit.

Initially, the author notes that the worker's "approval" is not necessary to facilitate this switch, as it is not explicitly implied. Practice has shown that, specifically in

²² Article 12, Jordanian Labor Law.

the case of domestic workers, employers „sponsors” transfer the employer from one sponsor to another, with no regards to the workers approval. According to a published news report, many domestic workers have faced this issue, and to quote one story *“She entered Jordan on July 31, 2018, to work for her sponsor, “Lily” (a pseudonym), and worked in her house for three years. The sponsor then transferred her sponsorship to “Raya” (a pseudonym) in exchange for receiving an amount of 3,000 Jordanian Dinars. After one year of working in the second sponsor’s household, the sponsor transferred the worker’s sponsorship to her sister, “Amina” (a pseudonym), in exchange for 3,000 Jordanian Dinars, without the worker, “Rand’s” consent in both instances. This was due to the worker’s passport being withheld by the sponsor and threats of reporting her to the authorities as a “runaway worker.”*²³ Such restrictions increase the possibility of economic exploitation of the worker. In many cases, if the worker wants to change jobs, they might have to bribe the employer to obtain their permission to facilitate the process as per the requirements in the instructions.²⁴ The author further notes that a distinguishment between “recruited” and “employed foreign workers” exists, whereas recruited workers may only be allowed to switch employers after six months of working for the employer, whereas employed workers do not have that restriction. Having many restrictions on the movement of foreign workers and their right to change employers also endangers the workers in another aspect, for instance, an international issue migrant workers often face is false recruitment, in which a recruitment agency gives false information to the recruited worker concerning the job they will be doing, the wages, and other matters, and then the worker finds themselves recruited for a job they did not initially agree to, hoping to change it later on, but eventually finding out that their right to transfer their employment during the term of the work permit is restricted. Due to this issue, some bilateral agreements were signed to ensure the protection from this issue, such as “The Principles and Controls for Regulating the Recruitment and Employment of Filipino Domestic Workers between Jordan(Ministry of Labor) and the Philippines(Ministry of Labor and Employment) for the year 2012” which stipulates that Philippine agencies are obligated to provide a written declaration from the Filipino worker, including his consent and acceptance to work as a domestic worker. This ensures that the worker is aware of the job they are recruited for, through authorized recruitment agencies, and ensures their approval of the work to be done, in addition to other aspects related to their employment. From the author’s prespective, this is a fortunate step forward that both countries have taken to ensure the protection of the migrant workers and limit trafficking of workers.

²³ Roya News "Investigative Report: Runaway Domestic Workers in Jordan, Complaining Sponsors, and Agencies Under Scrutiny" (2023). <https://royanews.tv/news/303652>.

²⁴ Daniel Coleman, “Systemic Vulnerability: Migrant Workers in Jordan” Heinrich-Böll-Stiftung, (2022). <https://ps.boell.org/en/2022/08/11/systemic-vulnerability-migrant-workers-jordan>.

However this as demonstrated, this is a bilateral agreement, and thus, it does not apply to all nationalities.

Other forms of exploitation are found in the employer's right to cancel the work permit at any time, leading to the deportation of the worker, which leaves the worker at the mercy of the employer. Workers facing abuse at work do not have the opportunity to leave the job as they wish. As the employer has the right to inform the police of the worker's "absconding," subjecting the worker to administrative penalties that include fines, administrative detention, and deportation.²⁵

Among the other issues that the Kafala system creates, is that workers can not renew or issue the work permit by themselves, and only the employer is allowed to initiate the process. If the employer does not, then the employee may be subject to deportation. In addition to this, failure by the employer to renew or issue work permits leads to monetary penalties, for instance, a late fine amounting to (50%) of the work permit fee imposed if the work permit period expires and is not renewed within ninety days from the expiration date.²⁶ This also affects the worker's ability to renew their residence permit which imposes fines on them for each day of delay. Furthermore, foreign workers may only access their and obtain their entitlement from social security, before departure, after obtaining a no-objection certificate from the ministry, in the case that the work permits were not issued or renewed as per the law, the employee has no other choice but to pay all fees and penalties retroactively for the entire period so that the no-objection certificate is issued. Although, the The Instructions for Conditions and Procedures for the Employment and Recruitment of Non-Jordanian Workers for 2012 and their amendments stipulate that each employer that wants to recruit /employ a foreign national must submit a monetary bank or judicial guarantee in an amount depending on the number of foreign workers, the purpose of this guarantee, is to liquidate it in the event that the employer fails to comply with any of the obligations imposed on him under the law and the regulations issued pursuant thereto or these instructions, in order to guarantee the rights of his workers.²⁷ However it does not appear that in practice that this guarantee protects the workers from having to pay those amounts in the case of the employer's failure to renew the work permit on time. However, the author notes that it is possible for the worker to claim the amounts he has paid to the employer if they choose to go through a litigation process proving their right to this claim.

4. Compliance with International Guarantees for Foreign Workers Rights in Jordan

Jordan has ratified seven of the core international human rights treaties: *International Covenant on Civil and Political Rights*, *International Covenant on Economic, Social and Cultural Rights*, *Convention against Torture and Other*

²⁵ Ibid.

²⁶ Work permit fees for non-Jordanians Regulation No. (142) of 2019.

²⁷ Article (5) of the Instructions.

*Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of Persons with Disabilities and Convention on the Rights of the Child*²⁸, However, it has not ratified the main UN instrument for the protection of migrant workers known as The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Jordan has also been a member of the International Labor Organization (ILO) since 1956, and has ratified 26 of the ILO conventions,²⁹ including seven of the fundamental conventions; *Forced Labour Convention, Right to Organise and Collective Bargaining Convention, Equal Remuneration Convention, Abolition of Forced Labour Convention, Discrimination (Employment and Occupation) Convention, Minimum Age Convention and Worst Forms of Child Labour Convention*. However, it is noted again that the country has not ratified any of the conventions concerning migrant workers, namely, The Migration for Employment Convention and The Migrant Workers (Supplementary Provisions) Convention, nor has it ratified the Freedom of Association and Protection of the Right to Organise Convention which greatly affects the rights of migrant workers. In practice and based on the studying of the national regulations, the author concludes that one step forward for ensuring more protections for foreign workers in Jordan would be the ratification and implementation of the Migrant Workers Conventions, both UN convention and ILOs conventions. For example, as stipulated previously, domestic workers who are reported to have “absconded” may face administrative detention. The author notes that such a behaviour does not constitute a crime, and therefore, placing the worker under detention violates their rights, “*There is no article in the residency laws about imprisoning them. There’s nothing about prison for someone who decided to break their work contract*” says the director of a legal centre for migrant rights in Jordan.³⁰ The UN convention on migrant workers and their families explicitly stipulates that migrant workers and their families shall not be subjected individually or collectively to arbitrary arrest or detention. Furthermore, the right to join trade unions, or form them, is also protected by the Migrant Workers Conventions, more specifically article (40) of the UN Convention. In any case, the author encourages the recognition for domestic workers’ right to join trade unions to be stipulated in the regulation, so as not to leave domestic workers out of this right, as stipulated previously in this article. Furthermore, according to a report

²⁸ United Nations, “United Nations Human Rights Mechanisms: Jordan's Engagement,” (2021).

²⁹ Ratifications for Jordan - International Labor Organization Data Base.

³⁰ The Guardian, “Migrant domestic workers in Jordan run the gauntlet between abuse and jail,” <https://www.theguardian.com/global-development/2017/mar/27/migrant-domestic-workers-jordan-abuse-jail>.

by Tamkeen,³¹ there is a legislation gap between the rights afforded according to the Convention on Civil and Political Rights, and national practice and regulations. The convention stipulates that “every one shall be free to leave any country including his own”. However, if the worker was not able to renew his residence permit on time due to the failure of the employer to renew the work permit, then the worker accumulates delay fees on residence renewal and stipulating them as “illegal” in the country, and in practice, when deciding to leave the country, the worker will not be able to leave without paying the fees, and may be detained until doing so. This circles back to the issues the Kafala system raises and produces and how it affects the access to international human rights afforded to all humans.

The matter of studying Jordan’s compliance with international standards and relevant human rights convention requires independent research. However it can be seen that in the case of migrant workers, there are some gaps between the conventions and national law, and in this aspect the author encourages the Jordanian legislator to ratify relevant migrant workers conventions and transpose their principles into its national laws.

Conclusion

In this article the author has accumulated a summary of the status of foreign workers in Jordan, the international framework Jordan adheres to, national regulations, and an overview of the Kafala system in Jordan and the implications it imposes. The author concludes that with respect to the labor law regulations governing the relationship between the foreign worker and the employer, the Jordanian legislator afforded them similar rights without any discrimination or distinguishment, including the minimum wage applicable. However, the author notes that in regard to trade unions, the Jordanian legislator has failed to adhere to international standards by restricting foreign workers from forming any trade unions or taking any leadership roles. For instance, the International Covenant on Civil and Political Rights Article (22) stipulates that everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of their interests. Therefore, the exclusion of foreign workers from taking leadership roles may affect their ability to voice their concerns through a trade union. The author recognises that there is a gap between the rights afforded in accordance with International Laws and Conventions and National Laws and practices. Therefore, the author calls for the legislator to re-evaluate current laws and regulations and ensure compliance with international standards.

Additionally, the author has highlighted the many consequences the workers have to endure due to the application of the Kafala system. Furthermore, the author notes that concerning domestic workers, which sector is mainly occupied by

³¹ Tamkeen Center for Legal aid and Human Rights, “The Weakest Link - Migrant Labor in Domestic and QIZ Sectors in Jordan 2010,” (2011), https://www.tamkeen-jo.org/download/the_weakest_link.pdf.

foreign worker, certain rights afforded in the labor law do not apply, due to a gap in the legislation, and the current interpretation of the law by Jordanian Courts has deprived these workers from compensation for overtime, arbitrary dismissal and end of service gratuity. In this aspect, the author encourages the Jordanian legislator to amend the regulation and ensure that the provisions of the Jordanian Labor Law apply to those workers, by explicitly stipulating so.

In addition to the aforementioned, the author encourages the Jordanian legislator to take measures to protect the foreign worker from the consequences resulting from the employer's failure to pay for work permit fees or renewal, as that directly affects the worker and their rights. The author notes that although the law has placed the burden of paying such fees on the employer, the worker is the only one facing the consequences of that failure. Furthermore, the author encourages the Jordanian legislator to remove any "detention" measures against the employee resulting from leaving work, as this leads to an increase in arbitrary detention and/or falls under the umbrella of forced labour if they choose to stay with the employer to avoid detention, which is a violation of human rights.