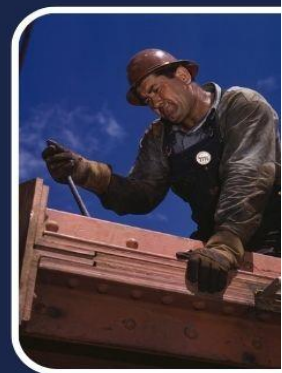
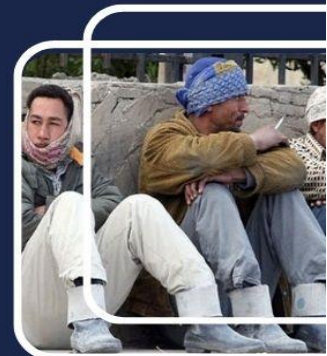


JORDAN'S LEGISLATIVE FRAMEWORK ON MIGRANT LABOR RIGHTS



THE NATIONAL CAMPAIGN FOR AN
ALTERNATIVE LABOR MIGRTION MODEL

JORDAN'S LEGISLATIVE FRAMEWORK ON MIGRANT LABOR RIGHTS



Freedom of Association, Social Security,
Occupational Safety and Health, and
Labor Inspection: The Case of
Agricultural and Domestic Workers.

2023

This study is commissioned by the National Campaign for an Alternative Labor Migration Model in Jordan and prepared by the Jordanian Labor Rights Center “Workers’ House”.

The National Campaign for an Alternative Labor Migration Model in Jordan includes CSOs and labor activists, calls for the abolition of the Sponsor (*Kafalah*) system, and advocates for an alternative labor migration model that is based on the international human and labor rights and standards; the campaign also calls for the abolition of all *Kafalah*-related application across the Jordanian legislation, administrative procedures, and labor relation between the employers and migrant workers across all sectors. Members of the Campaign include the Jordanian Labor Rights Center “Workers’ House”, Jordanian Women’s Union Association, Adalah Center for Human Rights Studies, the Independent Union of Agricultural Workers in Jordan, and migrant workers from 15 Asian, African, and Arab nationalities.

Introduction:

Jordan is among the countries that depend on migrant (non-national/expatriate)¹ labor; compared to the high unemployment rate of 24% in 2022, it could be said that Jordan's reliance on migrant labor is quite high due to many reasons, including the mismatch between the educational system outputs and labor market demand. Additionally, migrant labor in Jordan possesses the skills and qualifications that suit the demand on manual labor conditions across the labor-intensive sectors like construction, agriculture, and domestic work. Hence, migrant labor has become a key component of the labor market structure in Jordan.

Occupations or professions of migrant labor are often unattractive to Jordanians or incompatible with their qualifications, given the lack of decent work conditions and poor labor protections (for nationals and non-nationals alike). Another driver in this regard would be the educational policy imbalances as thousands graduate from universities in majors with almost zero demand in the labor market. Coupled with poor vocational training system, career and professional counseling and guidance services, they constitute a pool of push factors that render the Jordanian labor market an optimal destination for migrant labor for decades to come in addition to higher poverty and unemployment rates in the countries of origin that prompt migrant labor to seek better opportunities abroad, including Jordan.

Data on migrant labor in Jordan is extremely scarce, given its fragmentation across the official bodies that regulate and enforce policies pertaining to migrants' arrival, residence, work, and departure. The only reliable data in this regard pertains to duly regulated migrant workers that have been issued work permits by the Ministry of Labor (MOL) as mandated by the Labor Code. Such data shows that the total number of migrant workers who have been issued permits in 2021 reached (333,283) workers. Among Arab nationalities, Egyptian workers are the largest

¹ Jordanian laws use the terms "non-Jordanian/non-national workers" or "expatriate workers" to refer to this category, but they never use the term "migrant workers".

migrant labor community (54.1% of total migrant labor) in Jordan, whereas Syrians made only 8.5%. Bengali workers in Jordan ranked first among non-Arab workers (12.9%), followed by Indians (4.8%), whereas workers from the Philippines and Sri Lanka made (3.7%) and (2.3%)² respectively. No accurate data is available about Undocumented labor (those who work without duly issued work permits); hence, estimates about the numbers of this category vary between official bodies when they address the issue every now and then.

Migrant labor is concentrated across several economic activities, including the agricultural sector (23.9%). There are (35,559)³ domestic workers in Jordan, making (10.66%) of total migrant labor.

National laws regulate the labor market in terms of outlining employer and workers' rights and duties; in addition, there are some legal provisions governing migrant (non-Jordanian) workers' entry, residence, and work in the Kingdom. However, there are some outstanding issues that are yet to be addressed by Jordanian laws that are regarded as a matter of priority for migrant workers, including domestic and agricultural workers.

Domestic workers are yet to be included in the social security scheme as the law stipulates that their inclusion is pending a decree to this effect by the Prime Minister. This exclusion is an explicit discrimination against domestic workers as they are not officially recognized as another category of workers. Union organizing remains another dilemma as migrant workers are prevented from their freedom of association (FoA) rights, particularly in the domestic work sector which is predominantly made of non-nationals. The classification conditionality for professions allowed to form unions is also another key obstacle; the domestic worker is thus excluded from the FoA rights before being forced to fall under the classification of another union that does not genuinely represent their profession.

² MOL Annual Report, 2021.

³ MOL Annual Report, 2021.

The sector is also almost completely lacking when it comes to OSH and labor inspection-related issues as will be explained later in the study.

As for agricultural workers, social security, FoA, OSH, and Labor Inspection are, inter alia, a matter of priority especially after their numerous unsuccessful attempts to officially register their union – to no avail unfortunately. In addition, they have been forced under the professional classification regime recently to be under the union of workers in the food industries. The recently promulgated Regulation to include agricultural workers under the provisions of the Labor Code and Social Security Law is yet to be enforced. Likewise, the agricultural OSH and Labor inspection executive regulations are yet to be enforced. In total, these issues are of concern for workers of the sector, deprive them of their basic rights, and obstruct the enforcement of other available rights.

Significance of the Study:

The significance of the study stems from the topic it addresses and the approach it applies; it reviews the working conditions of migrant agricultural and domestic labor. The significance of the study can also be attributed to the analysis it conducts of national labor legislation to measure the effectiveness thereof, given the scarcity of studies and analyses on the topic.

Objectives:

The study aims at identifying the legal framework on migrant labor in Jordan, with primary focus on the two target sectors of agriculture and domestic work, and sheds light on the obstacles in national legislation that affect migrant workers' rights in four key areas, namely FoA, social security, OSH, and Labor Inspection; these are assessed in terms of whether they meet the international standards and vetted for any inherent discrimination. The study makes recommendations to address these obstacles accordingly.

Methodology:

To achieve its objectives, the study applies the descriptive analytical methodology by using a group of qualitative and quantitative research tools. It conducts an analysis of relevant national laws and the enforcement of their provisions, and compares them against international standards to identify gaps, reflect migrant workers' views on key rights-related issues, and offer recommendations about potential solutions to the issues and anomalies identified.

Structure:

The Study is composed of six themes as follows: Theme I (Overview of Jordan's Legal Framework on Migrant Labor); Theme II (Jordan's Position and migrant labor-related international conventions); Theme III (Freedom of Association/FoA Rights); Theme IV (Social Security); Theme V (Occupational Safety and Health/ OSH); and Theme VI (Labor Inspection).

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Theme I

Jordan's Migrant Labor Legal Framework: An Overview

National legislation regulates many legal aspects of workers and labor market, outlining the rights and duties of employers and workers irrespective of their nationality; there are also bylaws that regulate matters related to the entry, residency, and work of non-Jordanians.

The 1952 Constitution as amended in article 23 provides for the enactment of regulations on labor issues, including wages, weekly hours of work, annual and weekly paid rest days, health regulations and union organization⁴.

In the wake of Jordan's accession to the ILO in 1956, the first comprehensive labor code was promulgated as Law No. 21 of the year 1960 to address issues pertaining to individual and collective labor contracts, trade unions and employer associations, settlement of collective labor disputes, and the right to strike and closure.

The current applicable labor code was promulgated in 1996 as "Law No. 8 of 1996", developing the overall rules governing labor issues, including contracts, organization, settlement of labor disputes, and the right to strike and closure. The Code specifically sought to introduce balance to the individual and collective labor relations to keep abreast with the then recent socio-economic developments in the country, and because of commitments brought about by Jordan's accession to international conventions. However, many provisions of this law failed to observe

⁴ Article 23 of the Constitution: "(i) Work is the right of every citizen, and the State shall provide opportunities for work to all citizens by directing the national economy and raising its standards. (ii) The State shall protect labor and enact legislation therefore based on the following principles: Every worker shall receive wages commensurate with the quantity and quality of his work. The number of hours of work per week shall be defined. Workers shall be given weekly and annual days of paid rest. Special compensation shall be given to workers supporting families and on dismissal, illness, old age and emergencies arising out of the nature of their work. Special conditions shall be made for the employment of women and juveniles. (e) Factories and workshops shall be subject to health safeguards. (f) Free trade unions may be formed within the limits of the law. "

the international labor standards, including the provisions related to unions and collective bargaining.

Article 2 of the labor code introduces a definition of workers without discrimination based on nationality as far as the applicability of the law is concerned and with regards to rights and protections therein; the exceptions were few in which migrant workers were excluded such as making it mandatory that the founding members of a potential trade union or employer association⁵ be Jordanian nationals. The law mandated the GFJTU with powers and the right to set terms and conditions related to union affiliation and election⁶.

I. Regulating recruitments procedures

The Labor Code dedicates provisions on recruitment and employment of migrant workers, including article 12 that provides for mandatory work permits to be obtained⁷ from the Minister or whoever he authorizes prior to recruitment; it is also prohibited to employ them in professions or sectors other than those against which the original permits were issued.

The law differentiates between “recruited” and “employed” workers; pursuant to article 2 of the regulations on recruiting and employing non-Jordanian workers, “recruitment” refers to non-Jordanian workers who enter the country based on a recruitment contract with the intent of working, whereas “employment” refers to

⁵ Labor Code No. 8 of 1996 as amended (article 98).

⁶ Labor Code No. 8 of 1996 as amended (article 100).

⁷ Bylaws and regulations that apply to non-Jordanian workers include the following:

- a- Regulation on domestic workers, cooks, and gardeners No. 90 of 2009, as amended.
- b- Regulation on Recruitment Agencies of non-Jordanian domestic workers No. 63 of 2020.
- c- Regulations, terms, and procedures to recruit and employ non-Jordanian workers of 2012, as amended.
- d- Regulations, terms, and procedures of recruiting and employing Syrians of 2020, as amended.
- e- Regulations, terms, and procedures to recruit and employ non-Jordanian workers in the QIZs of 2007, as amended.
- f- Decision no. 58 of 2020, as amended, on Closed, restricted, and specialized professions of non-Jordanian workers.
- g- Regulation No. 19 of 2021 on Agricultural Workers.

non-Jordanian workers who are already inside Jordan and are being employed while already inside the country.

The legal regulation of migrant labor arrival to Jordan starts with the Ministry of Labor that designates upfront the economic sectors and activities allowed to recruit and employ migrant workers. The designation is based on labor market needs, including a list of “closed” professions that are exclusive to nationals. Many decisions to this effect have been issued by the Minister to classify the “open” and “closed” professions⁸, including the most recent 2023 ministerial decision⁹.

The migrant labor’s journey upon arriving in Jordan is regulated across the following key stages:

1- Arrival to Jordan

Entry of migrant workers to Jordan is governed by the requirement of obtaining an entry visa pursuant to the controls provided for in Visa Regulation No.3 of 1997 as amended; article 3(a) exempts from the entry visa requirements nationalities covered by the bilateral agreements signed with Jordan to this effect¹⁰.

Egyptians are among the nationalities exempt from visa requirements to enter Jordan. However, governments of the two countries reached an agreement to regulate Egyptian labor entry into Jordan; a prior “recruitment” approval is now a must by Jordan’s MoL (as will be explained later). Exempt from this new arrangement are investors, transit passengers heading to neighboring countries, and workers holding a valid work residency in one of the GCC countries.

2- Obtaining a residency permit

The MOI differentiates between two categories of nationalities; the first is the group of nationalities that are NOT bound by the need to obtain residency permits

⁸ The Omnibus decision posted on MOL website.

⁹ Recruitment of migrant labor in 2023 was allowed for workers in the agriculture, manufacturing, and domestic work sectors only, including workers with specialized skills.

¹⁰ The Ministry of Interior (MOI) uses the phrase “without prior approval by MOI” to indicate that citizens of designated countries are exempt from the visa requirement.

like the Egyptian, Syrians and Palestinian holders of green cards, Gazans holding white cards, and holders of temporary Jordanian passports. The second group is bound by residency permits, including nationals of other Arab and non-Arab countries. Nationalities of the first category are not obligated to obtain a residency permit from the Ministry of Interior; however, those who apply for residency must report their domicile to one of the police stations pursuant to Regulation No. 95 of 1998 on Designation of Domicile¹¹.

3- Reporting to the Employer:

At the outset, regulations pertaining to domestic workers are different from those applied to agricultural workers when joining their employers. The 2012 regulations on recruitment and employment of non-Jordanian labor as amended thereof apply to all sectors and economic activities, including agriculture; however, domestic workers are excluded since article 14 of the regulations provides that they join or report to the employer at least 45 days prior to signing the contract in order to undergo a physical examination at MOH Department of Non-Nationals' Health and apply for a work permit with the competent Labor Field Directorate, Article 16.4 provides that Egyptian workers shall pay US250 or equivalent in Jordanian Dinars upon arrival at the borders. The fees also count as a security to ensure that they effectively join their employers who have filed for their recruitment. The amount is refundable if the worker proves that they reported to the employer and obtained a work permit within 45 days of the date they entered the country.

As for domestic workers, the recruitment agencies have to see to it that they finalize the medical examination procedures within no more than 3 days of entering the country before turning them over to the employer (head of household in this case) provided that they are fit and healthy; they also should make sure that the

¹¹ The Regulation makes it mandatory for whoever employs or leases a property to a non-national to designate their domicile (address) pursuant to article 3 of the 2019 executive regulations on designating domicile of non-Jordanians, as amended. The form to report such data must be submitted to the police station by the lessor, employer, or landlord.

annual work and residency permits are obtained and handed over to the employer within three work days after the worker's medical results are ready.¹²

II. Regulating the labor Relationship

Relevant bylaws regulate the relationship between agricultural and domestic workers, and their employers – defining the rights and duties or responsibilities of both sides as follows:

1- Labor Contracts:

In the 2019 Regulation on Agricultural Workers, there is no provision that makes it mandatory to prepare a contract in writing. However, if there is a contract signed between the two parties, the Regulation mandates that two copies be drawn in Arabic and in a language the worker understands if they were not speakers of Arabic, with each side entitled to keeping one copy¹³.

Regulation No. 90/2009 on Domestic Workers, Cooks, Gardeners, and similar categories provides that labor contracts shall be organized as per “the special templates approved by the MOL”; it also provides that contracts shall be drawn in four copies in Arabic and another language the worker understands. The head of household (employer), worker, MOL, and recruitment agency shall be entitled to a copy each¹⁴. However, contracts are prepared in Arabic and English only; no templates in other languages are available although many female domestic workers do not speak English¹⁵.

¹² Article 5.a.ii.3 of the Bylaws on Regulation of Agencies Recruiting non-Jordanian Domestic Workers No. 63 of 2020.

¹³ Article 3(b) of Regulation of Agricultural Workers No. 19 of 2021.

¹⁴ Article 3 of the Regulation on Domestic Workers, Cooks, and gardeners, and similar categories, No. 90 of the year 2009 as amended.

¹⁵ Female domestic workers in Jordan come from the Philippines, Sri Lanka, Nepal, Ghana, Uganda, Kenya, and Ethiopia.

2- Wages:

Worker wages are a key component of the labor contract as the latter represents social status and source of living to provide for themselves and their families. The Labor Code provides those wages be defined in the contract, otherwise the worker would be entitled to the estimated equivalent pay for work of the same type (if any). Wages could be estimated according to customary practice, or the court would then decide on estimating the due wage pursuant to the provisions of the labor code¹⁶. In other words, the worker would be entitled to wages commensurate with the minimum wage as set by the tripartite committee pursuant to article 52 of the Labor Code.

On 2/2/2023, the tripartite committee on labor relations issued a decision¹⁷ to set the minimum wage at JOD 260/month throughout 2023 and 2024. The decision includes agricultural workers pursuant to article 8(a) of the Regulation on Agricultural Workers, altering thus a similar decision issued in 2020 to set the minimum wage for migrant workers in Jordan at JOD 230/month. The 2023 decision excludes certain worker categories from the application of the set minimum wage as follows:

- Non-Jordanian domestic workers, cooks, and gardeners and similar categories; the minimum wage for this category is set as per the agreements between Jordan and the worker's country of origin.
- Garment industry (Jordanian and migrant) workers, as they are subject to the wages specified in the collective labor agreement – namely JOD 220/month, with non-Jordanians entitled to receiving JOD 125 in cash, whereas the remaining amount is calculated as in-kind remuneration in the form of accommodation and meals.¹⁸

¹⁶ See article 45 of the Labor Code No. 8 of 1996 as amended.

¹⁷ The Decision was published in the Official Gazette, Issue No. 5855 on 1/5/2023.

¹⁸ A collective labor agreement was signed on 1/11/2022 between the Jordan Garments, Accessories, and Textiles Exporters' Association (JGATE), The Association of Owners of Factories, Workshops, and Garments (AOFWG) and The General Trade Union of Workers in Textile, Garment, and Clothing Industries (GTUWTGC); the Agreement is valid

With regards to the due date to pay worker wages, article 46 of the Labor Code provides that wages shall be paid to workers within a maximum of 7 days after the due date. The Regulation on Agricultural Workers provides for the same arrangement in article 8(b); the same applies to the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories as provided for in article 4. The latter Regulation also specifies that payment of wages shall be executed in the ways and means defined by the Minister of Labor, and that the head of household (employer) documents the payment of the monthly salary to their workers.

3- Leaves:

Article 7 of the Agricultural Workers Regulation No. 19 of 2021 provides that workers shall be granted a group of leave days like the leaves provided for in the Labor Code, including an annual paid leave of 14 days, and a paid sick leave of 14 days/year, renewable for another 14 days if the worker was admitted to a hospital. The Regulation also grants working mothers a maternity leave of 10 weeks (fully paid) before and after giving birth provided that six weeks of the leave are taken after giving birth and it is prohibited to ask them to work prior to the elapse of this period.

Article 7 of the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories includes legal provisions that make it binding for employers to grant domestic workers an annual paid leave of 14 days. However, the said Regulation added the phrase “in accordance with what was agreed with the head of household/employer”. The phrase is ambiguous, and its intent is not clear; the Regulation also makes it permissible to agree to postpone the annual leave until the end of the contract, limiting the paid sick leave to only 14 days/ year.

through 31/10/2025, setting the minimum wage of workers in this sector at JOD 220, for Jordanians and non-Jordanians alike. However, wages of non-Jordanian workers is paid as JOD125 in cash, and JOD 95 in kind. Article 6(b) of the collective agreement provides for an annual raise of five Jordanian Dinars for all workers.

4- Working Hours:

The Labor Code sets the daily working hours at eight, and the weekly hours at 48; it is prohibited to ask the worker to deliver additional hours unless calculated as overtime and following the worker's approval. The Law also allows the spread of daily working hours to no more than 11 hours/day, including rest periods.

The Agricultural Workers Regulation No. 19 of 2021 observes the working hours; article 4(a.1) also provides for a daily workload of 8 hours and no more than 48 hours/week spread over a maximum of six weekdays.

The Regulation on Domestic Workers provides for a maximum of eight actual working hours/day, excluding periods of no work, rest, or mealtimes. The Regulation leaves it to the employer (head of household) to set the daily working hours in line with the daily house chores and nature of work; it is binding for the employer to grant the domestic workers enough sleeping hours at no less than 8 hours/day.¹⁹

5- Weekly Holidays:

All workers have the right to a weekly holiday, set as Friday of every week unless work requires otherwise, and pending the approval of both parties²⁰. Workers shall be entitled to their full day wages if they work during their weekly day off. However, the law takes notice of day workers (paid daily) and regulates payment of their wages in tandem with their weekly working days, making it mandatory to work for six days/week before workers become entitled to wages for their weekly holiday. The wage becomes pro-rated with the number of days if they worked for less than six days/week. Should they be asked to work on their weekly holiday, they shall be entitled to remuneration at the rate of 150% of their regular wages.

¹⁹ As provided for in article 6 of the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories.

²⁰ Article 60(a) of the Labor Code; Article 5(a.1) of the Agricultural Workers Regulation; and Article 7(a) of the Regulation on Domestic Workers.

6- Forced Labor and Passport Confiscation:

Confiscation of migrant worker passports or travel documents is a common practice in Jordan although it is punishable by law. Article 23(2) of the Passports Law No. 2 of 1969, as amended, provides that “whoever is found in possession of a passport or travel document in an illegitimate manner shall be punished with imprisonment for a term no less than 6 months and no more than 3 years, a fine of no less than 500 but no more than 1000 JD, or by both penalties.” Studies indicate that 95% of (female) domestic workers are not in possession of their passports or ID documents; employers or recruiters do not deny that they confiscate migrant workers’ passports under the pretext that this practice is the only guarantee that the domestic worker stays at her employer’s house and prevent her from absconding or returning to her country.

Article 77(b) of the Labor Code holds passport confiscation as a punishable act providing that “in addition to punishments provided for in applicable laws, the employer shall be punishable by a fine of no less than 500 JD and no more than 1000 JD if they violate the law and employ workers by way of force, threat, fraud, or coercion, including if they seize (confiscate) their travel documents; accomplices who aided and abetted in this type of employment shall also be punishable with the same fine”. The fine is doubled in repeat cases.

Article 13 of the Agricultural Workers Regulation also prohibits employing agricultural workers by way of force, threat, fraud, or coercion, including the confiscation of their travel documents, sexual or physical abuse, or violation of their basic rights; otherwise, violators shall be punishable as provided for in the Labor Code.

The Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories falls short of providing provisions on forced labor matters; article 4 makes it mandatory for the head of household (employer) to employ the domestic worker in their habitual or temporary place of residence with their family; only the employer and family members has the right to issue work orders to the domestic workers. The Regulation also provides for the need to treat the worker with

respect, provide all decent work conditions for them, provide their needs, including food, drink, clothing, and a well-lit and well-ventilated room with sleep essentials and amenities, as well as to ensure their right to privacy and the possibility of making international phone calls with their families abroad, at least once a month and paid for by the employer. In other words, the provisions on forced labor and passport confiscation apply in this case, especially as provided for in article 77 of the Labor Code and article 23 of the Passports Law.

Theme II

Jordan's Status with regards to Related International Conventions and Treaties

Jordan has acceded to many international conventions, charters, covenants, instruments, and protocols that include, directly or indirectly, provisions related to migrant labor matters. Some of these provisions have been well localized in national laws, including Jordan's commitments established pursuant to the 1948 UDHR principles, and ensuing conventions and treaties Jordan has ratified. These instruments collectively make a comprehensive and legally binding system with regards to human rights protections and combating trafficking in person like the 1966 ICCPR, and ICESCR that Jordan has ratified in 1975 – one year after ratifying the 1965 International Convention on the Elimination of All Forms Racial Discrimination.

However, Jordan is yet to ratify the two optional ICCPR protocols and many conventions related to migrant labor and refugees, including the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CRMW). The Convention provides assurances and rights members states should observe with regards to all migrant workers and members of their families irrespective of whether they accompanied or joined them later, or if they were born in the country of destination or transit or if they have entered without prior permit or official documentation. The CRMW acknowledges rights and guarantees for undocumented migrants and expands on the rights of migrant

workers in the country of destination. Likewise, Jordan has not ratified the Convention relating to the Status of Refugees and its 1967 optional protocol, the 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness. Nonetheless, Jordan has signed a Memorandum of Understanding with the UNHCR to define the terms of reference for cooperation on refugees and asylum seekers in 2008 and 2014.

➤ **ILO Conventions:**

Since joining the ILO in 1956, Jordan has ratified to date 26 of the 190 ILC-approved conventions, addressing various aspects of labor issues. In accordance with the ILO Declaration on Fundamental Principles and Rights at Work, 7 of the 8 key conventions represent the four key pillars of the ILO identified in following conventions: *The Freedom of Association and the Right to Organise Convention (C87)*, *The Forced Labour Convention (C29)*, *The Worst Forms of Child Labour Convention (C129)*, and *The Discrimination (Employment and Occupation) Convention (C111)*.

However, Jordan has yet to ratify many other conventions on migrant labor rights and regulation of their work, including the 2011 Domestic Workers Convention (C189), and the 1949 Migration for Employment Convention (C97), the 1975 Migrant Workers (Supplementary Provisions) Convention (C143), the 1997 Private Employment Agencies Convention (C181), the Labour Inspection (Agriculture) Convention (C129), the Occupational Safety and Health Convention (C155), and The Promotional Framework for Occupational Safety and Health Convention (C187).

Theme III

Freedom of Association (FoA)

The trade union sector in Jordan is among the largest local civil society organizations, including unions duly registered pursuant to the Labor Code – namely, 17 trade unions and 55 employer associations²¹. Membership in this sector reaches around 427 thousand, making up about 37.5% of a total of 1,136,868 of affiliated CSO members as some studies indicated in 2007.

There are also some union organizations (the independent trade unions that started to appear in 2011) that are yet to be officially recognized by the government as they are still not considered as legally registered union entities under the Labor Code.

In contravention with the international standards, the Labor Code imposes many restrictions on the work, establishment, and activity of unions. The Law opts for the registration and classification method to treat these structures as corporate persons and grants the union registrar at the MOL the powers to reject registration of newly established unions without explaining the grounds for such rejection, adding more restrictions on the freedom to associate and plurality to unions.

I. International Conventions and Instruments:

The importance of unionizing and collective bargaining has been explicitly emphasized in international instruments, including the UDHR; article 20 of the Declaration provides that “(1) Everyone has the right to freedom of peaceful assembly and association, and (2) No one may be compelled to belong to an association”, and article 23.4 provides that “Everyone has the right to form and to join trade unions for the protection of his interests.”

²¹ According to MOL records published on its website (www.mol.gov.jo).

The ICCPR emphasized the right to association; article 22(1) provides 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 his interests “.

Article 8 of the ICESCR also further emphasizes that right: “The States Parties to the present Covenant undertake to ensure: (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law, and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others “.

The ILO also has many conventions on the FoA, including C87 on the Freedom of Association and the Protection of the Right to Organize, that includes standards to be used as a basis for the safeguards and controls that regulate FoA rights.

Through upholding the application of principles on organizing and collective bargaining, C98 dedicates the notion of organizing by prohibiting illegitimate practices by employers against workers who join unions; in addition, the convention advocates and fosters collective bargaining with the employers and worker representatives to regulate working conditions in CBAs.

In article 6(a.ii), the 1949 Migration for Employment Convention (C97) makes it mandatory to uphold the principle of equality across nationalities when it comes to joining worker organizations and enjoying CBA benefits. The 1975 Migrant Workers (Supplementary Provisions) Convention (C143) addresses in article 10 equality between national and migrant labor when it comes to unionizing, and article 3(1) of the 1975 Rural Workers’ Organizations Convention (C141) grants rural workers (nationals and migrant alike²²) the right to establish and join worker organizations.

The 2011 Domestic Workers Convention (C189) enshrines specific provisions on unionizing for national and migrant domestic workers. Article 3 emphasizes the freedom of association and the right to form and join unions. Similarly, article 28

²² When defining the concept of “rural workers”, article 2 of C141 does not differentiate between national and migrant workers.

of the 1990 International Convention on the Protection of the Rights of All Migrants and Members of their Families²³ emphasizes the right of migrant workers to take part in trade union meetings and activities as well as the freedom to join trade unions of their choice, while prohibiting the imposition of any restriction on the exercise of these rights.

The Collective Bargaining Convention (C154), and the Recommendation on Promoting Collective Bargaining (R163) establish the mechanisms for countries to adopt when facilitating CBAs involving all employers and workers, with guidelines on avoiding any obstruction thereof, forming commissions, and introducing dispute settlement measures while fostering collective bargaining. The ILO has also issued Recommendation (R91) to outline the methods for states to enhance collective agreements through defining their concept, oversight mechanism, interpretation, and ensuing impact.

The ILO's (C135) and (C151) focus on the protection of workers' representatives by enhancing their protections against any retaliation as a result of representing workers; the conventions also emphasize the need to facilitate the work of these representatives, including dedicating ample time for them to deliver on their functions inside and outside the organization, and grant them access to all workplaces and information needed to deliver on their representative duties.

Considering the above, the Jordanian Federation of Independent Trade Unions (JFITU) filed a complaint with the ILO in 2018. Lodged under Case No. (3337), the complaint alleges that the Government of Jordan has violated the freedom of association rights. The ILO committee on FoA submitted its report No, 403 on 17/6/2023; it included the following recommendations as approved by the ILO Governing Body during its 348th session:

1. "The Committee reiterates its request to the Government to amend section 98(e) of the Labour Code so as to eliminate the restriction placed on the

²³ The Convention was adopted by the UNGA Resolution No. 45, dated on 18 December 1990.

organizing rights of migrant workers and to ensure that foreign workers may be elected to trade union office.

2. Amend section 98(f) of the Labour Code so as to ensure that minors who have reached the legal age for employment, whether as workers or trainees, are fully protected in their exercise of the freedom of association rights.
3. amend the Labour Code so as to ensure that more than one trade union organization per sector or industry can be established, if the workers so desire.
4. Amend the Labour Code to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through the organization of their choosing”.

II. National Legislation:

1- The Jordanian Constitution:

The 1952 Constitution took note of the international legislative motivations in emphasizing the need to maintain balance in labor contracts to ensure a stable labor relationship, safeguard workers' rights, and yield positive impact on the national economy. It made it mandatory for the state to avail worker protections to provide stable labor and sustainable production. Article 23 of the Constitution regulates the right to and protection of work; paragraph (i) provides that work is the right of every citizen, and that the state shall provide opportunities to work for all citizens by directing the national economy and raising its standards. In paragraph (ii) of the same article, the Constitution enshrines the state duty to protect labor by enacting legislation based on principles that would ensure appropriate worker protections, including the entitlement to receive wages commensurate with the quantity and quality of their work, defining the number of hours of work per week, and annual as well as weekly days of paid rest, and dedicating a special compensation for workers supporting their families and in the cases of their dismissal, illness, old age, and emergencies prompted by the nature of their work. These principles also include setting special conditions for the employment of women and juveniles, applying

health safeguards and rules to the factories and workshops, and freely forming trade unions within the limits of the law.

With regards to the right to association and organizing, the following observations can be made about the relevant constitutional and legal texts and provisions:

- 1- The Constitution emphasizes the right to form trade unions specifically on two separate occasions. First, article 16 provides for the political rights to form associations, unions, and political parties; second, article 23 dedicates the right to work as part of the economic, cultural, and social rights, including the right to form free trade unions.
- 2- The Constitution exclusively confers the right to association²⁴ and organizing unions on Jordanians only; it falls short of guaranteeing this right to migrant labor in Jordan – as could be interpreted from the word “Jordanians” used in article 16. Thus, the constitution veers off the right track in contravention of the principles dedicated in the UDHR, ICCPR, and ICESCR that guarantee the exercise of this right to any human being irrespective of nationality and without any form of discrimination.
- 3- The Constitution stipulates that the ends from exercising the FoA rights shall be legitimate and effected through peaceful means, using bylaws that are not in violation of the constitution. These restrictions are somehow in line with the standards dedicated in the international instruments on human rights, including the ICCPR, as they permit the application of such controls for purposes related to maintaining public order and health, and protection of the rights of third parties.
- 4- The Constitution defers the regulation, establishment, and financial control of trade unions and associations to the law that would be promulgated to this effect, indicating that it would be a mere regulatory matter rather than

²⁴ Article 16 of the Constitution: “(i) Jordanians shall have the right to hold meetings within the limits of the law. (ii) Jordanians are entitled to establish societies and political parties provided that the objects of such societies and parties are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution. (iii) The establishment of societies and political parties and the control of their resources shall be regulated by law.”

undermining the essence of this right. In other words, it should provide for the exercise of this right by all individuals without rendering it defunct. Therefore, the prospective law should not include provisions that would make the exercise of the FoA rights pending the will and desire of the Public Administration or violate the independent nature of trade unions and associations by intervening in running their affairs. Article 28 further emphasizes that laws to be promulgated pursuant to the Constitution to regulate rights and freedoms may not infringe upon the essence of these rights nor undermine their basics.

2– Labor Code No. 8 of 1998, as amended:

Labor legislation usually seeks to achieve balanced individual and collective labor relations in line with the country's socio-economic developments and adherence to international labor standards and conventions in this respect. This has always been at the back of the Jordanian lawmakers' mind although many of the legal provisions fail to achieve this objective, and fall short meeting the international standards, including the instruments on association and collective bargaining. Chapter 11 of the Labor Code regulates the legal provisions pertaining to trade unions as follows:

- 1- Founding members of any trade union or employer association shall be Jordanians (article 98.e).
- 2- No trade union or association may be formed to conduct activities based on ethnic, religious, or sectarian grounds; it is also prohibited to carry out any such activities after being officially established (Article 98.c).
- 3- Workers seeking to join trade unions may not be under the age of 18 (article 98.e).
- 4- Article 100 confers on the GFJTU the power to impose consolidated bylaws for its affiliates.

The following can be inferred from the Labor Code provisions on union organizing:

- 1- The Law provides that the right to form unions is exclusive to Jordanians only; it prohibits (migrant) non-Jordanian workers to form trade unions.
- 2- It permits migrant workers to join trade unions but prohibits them from being elected as board members or assuming leadership positions therein.
- 3- Article 98 of the Code restricts workers' right to organizing by conferring upon the Minister of Labor the power to classify economic sectors and activities (trade and industries) in which workers are entitled to have union structures – restricting them to a limited number of (sub)sectors and preventing pluralism of unions in the same trade/ profession or groups of professions.
- 4- Article 100 mandates the GFJTU with the power to develop consolidated (uniform) bylaws (constitutions) for its affiliates although this should be the right of the general assemblies of these affiliate unions.
- 5- Following the promulgation of the Minister of Labor's decision No. 45 of 2022 to classify the industries and economic activities whose workers are permitted to establish their representative trade unions, agricultural activity was classified under the umbrella of the "General Union of Workers in Water, Agriculture and Food Industries" that includes workers across various economic activities, including agricultural workers – hindering thus the genuine representation of workers of this sector.²⁵
- 6- The Classification Decision listed domestic work under the General Trade Union of Workers in Public Services, Free Occupations, Communications, and Info Technology which includes large numbers of workers across diverse working conditions that have nothing in common²⁶.
- 7- Including non-Jordanian workers in the right to join trade unions but excluding them from the right to establish such unions and assuming leadership positions therein undermines their chances to express their views

²⁵ The Minister's Decision was published in the Official Gazette on 1/8/2022 (Issue No. 5808).

²⁶ Article 1 (n.iv) of the Minister's Decision No. 45 of 2022.

and interests as well as to improve their working conditions in the CBAs and when negotiating collective agreements.

<p>"Organizing helps workers know their rights like wages, protections, and access to justice."</p> <p>A Jordanian female agricultural worker</p>	<p>"We have never met workers from the Union of Food Industries; their working conditions are different from ours – we plant food; they manufacture." A Jordanian female agricultural worker</p>	<p>"How are food industries related to agriculture? We work in separate sectors; we are under the Ministry of Agriculture; they are under the Ministry of Industry". An Egyptian agricultural worker</p>
<p>" Since we do not have the right to organize, we are denied collective bargaining with the employers and the government to improve our work conditions."</p> <p>A female Filipino domestic worker</p>	<p>"It is unacceptable to have domestic workers join the public services union; our problems and demands are different from other sectors. We want our own union that we form, lead, and elect its leadership."</p> <p>A female Filipino domestic worker</p>	<p>"Without a union to genuinely represent us, we will continue to suffer exploitation and discrimination as well as lack of access to justice."</p> <p>A female Bengali domestic worker</p>

3- The Consolidated Regulation on Trade Unions:

Article 45 of the GFJTU's uniform consolidated Regulation on Trade Unions stipulates that only Jordanian nationals can run for board membership of trade unions; such a stipulation prevents migrant workers from running for or assuming leadership positions at their respective trade unions – denying them thus any chance for genuine representation at par with their Jordanian co-workers albeit the Labor Code does not stipulate the same.

4- Agricultural Workers Regulation:

Even though the Regulation explicitly grants agricultural workers the right to form or join trade unions, article 16 provides that "legal provisions apply in cases not provided for in this Regulation", indicating that the reference here is to the Labor Code and that the right to form unions apply to agricultural workers as well.

In other words, as of the date the Regulation was promulgated, Jordanian agricultural workers have become entitled to form their own union under the activities and professions as classified by the Minister of Labor and if there is no

other union representation in the same subsector. This would also entail that migrant labor has also the right to join, but NOT form, their trade unions nor can they assume leadership positions therein in accordance with the Consolidated Trade Union Regulation.

5- Domestic Workers, Cooks, Gardeners, and Similar Categories Regulation:

There are no provisions in this Regulation that stipulate the right of domestic workers to form or join their trade union; unlike the Regulation on Agricultural Workers, it does not provide for the applicability of the Labor Code in cases not covered by its provisions. Additionally, the Jordanian judicial precedent stipulates that Labor Code provisions do not apply²⁷ in cases not provided for in the Regulation on Domestic Workers – quite an obstruction in their quest for genuine representation.

6- Minister of Labor's Decision regarding the Classification of professions or vocations and industries to which employees are attributed to establish a union., No. 45 of 2022:

Pursuant to Law No. 14 of 2019, amending the Labor Code, article 98 grants the Minister of Labor the power to issue a classification of industries and professions entitling workers to form their trade unions; published in the Official Gazette on 1/8/2022, the Decision violates many international standards as follows:

- 1- Restricting the number of such professions and industries to the possibility of forming 17 trade unions only.
- 2- Merging many economic activities under one union although they are not related, including the General Trade Unions of Workers in Water, Agriculture, and Food Industries which now covers activities like the following: bread-making and preparing other products of flour, production and refining of sugar and its products, making of sweets and confectionary, water and sanitation services,

²⁷ Adjudication in Court of Cassation decisions No. 99/3378, 2015/3753, and 2021/5596.

and workers in small-size farmer holdings in plant or animal production. Despite numerous calls unheeded by the Minister of Labor, the classification was not reconsidered with regards to this trade union. Likewise, the title of the Trade Union of Public Services Workers has been changed to General Trade Union of Workers in Public Services, Free Occupations, Communications, and Info Technology. Under the new classification, the union now includes workers in ICT, Telecommunications, Postal Services, Private safety and security firms, and domestic workers.

- 3- Only a few select professions and industry activities are included in the classification, excluding large labor segments from the right to know and improve what could be done to their working environments and decent work.
- 4- The Decision denies large groups of workers their right to form their own unions in their respective sectors and assume leadership positions in them.

III. Conclusions and Recommendations:

The Jordanian situation vis-à-vis the FoA rights can be summarized as follows:

- Jordan has ratified the international instruments and conventions that guarantee the FoA rights, including the ICESCR, as published in the Official Gazette in 2006 – making it thus part and parcel of the Jordanian lore of laws with precedence over domestic laws pursuant to the established judicial precedent laws in Jordan.
- Similarly, Jordan is bound to apply the ILO Declaration on Fundamental Principles and Rights at Work and the conventions indicated therein since they are foundational to member states' commitments that are established upon joining the Organization and without even having to ratify these conventions to start with. A case in point is C87, as the Constitutional amendments emphasize Jordan's adherence to principles in the Convention as they provide for the right of Jordanians to form free trade unions. Hence,

the Labor Code's prohibition on forming new trade unions would also be deemed unconstitutional and in violation of Jordan's commitments arising from the international treaties and conventions. It should be noted that Jordan's Labor Code is not in tandem with these requirements, prompting the need to revise the law and enable it to keep abreast with the legislative scheme indicated earlier.

- Additionally, the methodology applied to the classification of professions and industries has not changed since the 1970s, restricting the number of trade unions to 17 only. It is, therefore, not a sustainable situation given the sizable expansion of types and scope of business activities and professions and the emergence of new ones. The established trade unions can no longer accommodate this big diversification of activities and cannot address or meet the needs of and provide services to all workers across sectors or sub-sectors.

Recommendations:

1- The Government should ratify the following conventions:

- C87 on FoA, noting that the convention is already binding for Jordan without ratification – pursuant to ILO Declaration on Fundamental Principles and Rights at Work.
- C189 on Domestic Workers
- C97 on Migrant Workers

2- Amend article 98 of the Labor Code to allow workers, in general, to form their trade unions without any government intervention (by just registering with the Trade Union Registrar), repealing the latter's powers to deny registration or reject it, and ensuring the freedom of pluralistic union organizations within the same activity or industry.

- 3- Amend article 98 to also allow migrant workers to form trade unions and run for board membership.
- 4- Repeal the power to issue the classification decision to restrict industries in which workers are entitled to form their own unions; until then, a new interim decision must be issued to allow the formation of trade unions across single activities and professions while limiting as much as possible the merger of many activities under a single union.
- 5- Amend article 100 of the Labor Code to repeal the GFJTU's powers to impose the consolidated bylaws across trade unions, leaving the matter to their respective congresses or assemblies without intervention and while observing the international standards in this respect.
- 6- Repeal the GFJTU's power to issue the Consolidate Regulation on Trade Unions; until then, the MOL should direct the GFJTU to amend the Regulation passed in 2021 since it is in violation of article 98 of the Labor Code – that does not restrict the right of migrant workers to join and serve on union boards (in reference to the chapeau of article 100 which stipulates that the GFJTU issues consolidated bylaws for its affiliates without prejudice to the applicable laws).

Theme IV

Social Security

The Social Security Law No. 1 of 2014 as amended provides legal coverage of workers irrespective of their nationality, term or form of contract, or number of enterprise workers; it provides the following insurance schemes²⁸:

- 1- Old age, incapacity (disability) and death insurance (including regular and early old age pension, lump sums, disability pay, and survivors' entitlements).
- 2- Work-related injuries insurance (medical expenses, compensation, disability, and death benefits).
- 3- Maternity insurance.
- 4- Unemployment insurance (benefits).

However, the law excludes civilian and military personnel appointed prior to the entry into force of the social security scheme; it also exempts employers from paying coverage for their workers who worked for less than 16 days in any month²⁹. By law, domestic workers are also excluded from coverage, pending a decision to this effect by the Prime Minister³⁰— something which is yet to materialize.

Although the Social Security Law does not exclude agricultural workers from its provisions and insurance schemes, denial of coverage is due to registration of agricultural holdings where they work save for the very few that are already duly registered with the Ministry of Industry and Trade, company registrar, or other official bodies. Hence, employers in this case are not obliged to provide

²⁸ The Social Security Law No. 1 of 2014 mandates the Social Security Corporation (SSC) to roll out a health insurance scheme; however, it is yet to be implemented.

²⁹ Article 4 of the Social Security Law.

³⁰ Article 4(c) of the Social Security Law No. 1 of 2014 as amended provides that "... insurances may be applied to domestic workers and the like by virtue of a resolution by the Council of Ministers upon recommendation by the Board, and all the issues pertaining to their insurance coverage shall be regulated by virtue of the regulations issued pursuant to this law."

contributions simply because their workers do not meet the “uninterrupted” duration of work required to qualify (16 or more days a month).

In 2020, the Regulation on coverage in SSC insurance schemes³¹ was amended to make coverage of own-account workers mandatory (mainly, in agriculture, construction, transport, tourism, public service, maintenance, art and media production). This category does not meet the definition of workers under the Labor Code due to lack of affiliation or subordination relationship where a worker is required to deliver work under supervision or management of an employer. It is a coverage that includes Jordanians and non-nationals alike as well as migrant workers who hold flexi-permits or free occupation permits³².

<p>” How would I cover work injuries if I fall, break a leg and require metal rod implants”.</p> <p>A Jordanian female agricultural worker</p>	<p>” We demand work injuries compensation; many workers die without any coverage or compensation for their families.”</p> <p>An Egyptian agricultural worker</p>	<p>”(female agricultural workers have to work right after giving birth, leaving their newborns to head to work and make a living as they have no social security.”</p> <p>A Jordanian female agricultural worker</p>
<p>” Not including us in social security is unfair and unjustified discrimination against us; we also do not receive any end of service pay.”</p> <p>A female Filipino domestic worker</p>	<p>“We have no pension, injury compensation, or other insurance like maternity and unemployment.”</p> <p>A female Filipino domestic worker</p>	<p>“We demand that we be recognized as workers and become entitled to other rights, including social security.”</p> <p>A female Filipino domestic worker</p>

After the Agricultural Workers Regulation was promulgated in 2019, it has become mandatory that every employer in the sector include their workers in the social

³¹ Article 46 of the original Regulation has been amended by Regulation No. 108 of 2020 to amended regulations of SSC insurance schemes coverage.

³² Free or flexi-permit is issued to non-Jordanians in loading, unloading, construction, and agriculture professions pursuant to the foundations of issuing free occupation permits to non-Jordanians and by the Minister of Labor's decision no 291/2019; flexi-work permit is issued to Syrian workers pursuant to the regulations of employing Syrian nationals only under the regulation and procedures or recruitment and employment of Syrians in 2020 as amended.

security³³ contributions. However, employers who have three or less workers are exempt from this obligation – thus denying many workers in the sector from social protections. Additionally, the problem of unregistered agricultural holdings and the 16-days rule of continuous duration per month add more obstacles.

I. International Instruments and Conventions:

International instruments underline the significance of social security; for instance, article 6. C of C98 emphasizes the need for providing social security coverage for migrant workers without discrimination and without any restrictions imposed on the right to insurance as provided for in the law.

Convention 118 on equal treatment between nationals and non-nationals in social security establishes the principles of social protection for all workers, including migrants, and the need to enjoy all insurance schemes offered by the Social Security Law.

Article 14 of C189 on domestic workers fosters the need to provide social security for domestic workers, including migrants, as well as access to available insurance schemes including maternity benefits. In addition, Recommendation 201 provides the tools to help countries offer social security coverage to domestic workers; paragraph 20 of R201 recommends means to facilitate payment of social security contributions, including the use of a simplified payment system.

Objective 22 of the Global Compact on Safe, Orderly and Regular Migration (GCM)³⁴ identifies the procedures to establish mechanisms for portability of social security entitlements and earned benefits. The procedures include establishing and maintaining national non-discriminatory systems, including minimum social

³³ Article 12 of the Agricultural Workers Regulation.

³⁴ In December 2018, the Intergovernmental Conference for a global compact on a safe, orderly, and regular migration was held to provide a collaborative framework and include 23 objectives, implementation processes, follow-ups and reviews. Every objective includes a group of procedures as relevant best practices policy tools to implement the 23 objectives for a safe, orderly, and regular migration along the migration cycle.

protections for nationals and migrants in line with the 2022 ILO's Recommendation 202 on national social protection floors³⁵.

II. National Legislation:

A– Social Security Law:

Although the social security law provides many social insurance schemes, it still violates the international labor standards with regards to many aspects, including:

- 1- Making social security contributions pending the delivery of work for no less than 16 days/month denies coverage for a large segment of workers and allows employers to deliberately hire people for several days that are always less than 16 to circumvent the binding contribution otherwise.
- 2- The social security law is not binding for employers to include agricultural workers; the government took a decision to postpone the enforcement until the end of 2023 although the Regulation was issued in 2021.
- 3- No rigorous provisions are available to deter unscrupulous employers who make their migrant workers pay the due contributions in return for issuance or renewal of their work permits.

B– Agricultural Workers Regulation:

Although the Regulation explicitly provides for mandatory contributions by employers of nationals or migrants, it exclusively addresses employers who have more than three workers only, thus denying large numbers of workers the potential of enjoying the insurance coverage – prompting many to evade the requirements by deliberately employing less than three workers in their farms or holdings.

³⁵ Despite it is non-binding in terms of international law, the GCM should be approached ethically by engaging in implementations and reviews.

However, this mandatory development is not that effective yet due to the government's decision to postpone the enforcement until 2025. Additionally, the law and its regulations lack mechanisms on how to include agricultural workers who work for more than one employer or keep switching employers on an ad interim basis.

C–Domestic Workers:

The Law on social security explicitly excludes domestic workers from receiving social security, making it pending on a decision to this effect by the Council of Ministers. It is the first time that the SSC Board has requested the cabinet to issue a similar decision, thus leaving domestic workers outside the purview of the law. Such a position cannot be explained from a legal and practical perspective; it denies them a right enshrined in the international standards Jordan has adhered to and forfeits key revenues to the SSC and its Funds as well.

Conversely, domestic workers are also denied a similar key right – namely, the right to severance pay (end of service). Jordan's judicial lore has already established that rights like end of service pay, compensation for arbitrary dismissal, and notice remuneration have not been addressed in the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories No. 90 of 2009 as amended. It therefore failed to mandate such worker rights; accordingly, courts of law still cannot affect such rights for domestic workers and continue to rule against their labor claims.

III. Recommendations:

- 1- The Law on Social Security should be amended to include domestic workers in its purview and disengage their fate in this matter from a pending decision by the Council of Ministers.
- 2- The SCC should offer new mechanisms that address the recent labor market developments to enable agricultural workers to contribute to social security and benefit from insurance schemes even if they work for less than 16 days in any given month with one or more employers.

- 3- Abrogate exempting employers who have less than 3 workers from the applicability of labor code provisions.
- 4- Amend the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories so that it covers all rights provided for in the labor code but not in the Regulation (just like what is provided for in article 16 of the Regulation).

Theme V

Occupational Safety and Health (OSH)

Occupational Safety and Health (OSH) are a standard of decent work and a key foundation of basic rights and principles at work; OSH pertains as well to fair and satisfactory conditions of work as provided for in the international bill of rights, including the ICESCR.

In addition to upholding one of the most important human rights, namely the right to life and enjoyment of the highest attainable level of health, maintaining an advanced level of OSH is considered key to sustainable development and enhanced productivity since human resources are treated as national assets. Retention of such assets would secure skilled and efficient resources, save time in production processes, cut direct and indirect injury costs, alleviate the demand pressures on therapeutic services, and boost development overall.

I. International Instruments and Conventions:

The ILO has dedicated almost 16 of its conventions and many recommendations to OSH topics. Considered to be key to the Organization's 2022 declaration, OSH constitutes the fifth pillar or principle of work rights and basic principles – projecting the growing importance of the matter. Jordan has ratified three such conventions, namely C119 (Guarding of Machinery), C120 (Hygiene “Commerce and Offices”), and C124 (Medical Examination of Young Persons/ Underground Work).

The 2019 Convention on Violence and Harassment in the World of Work (C190) established standards to provide protection at the workplace; article 9 provides for the need to consider GBVH and associated psycho-social risks when managing occupational safety and health matters.

Likewise, C189 (Domestic Workers) makes it mandatory to apply all necessary measures that are commensurate with domestic work in order to ensure OSH for domestic workers.

Jordan is yet to ratify several key conventions in this regard, including C155 (OSH), C161 (Occupational Health Services), and C170 (Chemicals Convention).

II. National Legislation:

Article 23 of the Constitution provides for the need to apply health rules to work facilities; Labor Code (No. 8 of 1996 as amended), Social Security Law (No. 1 of 2014), and Public Health Law (No. 47 of 2008) included many OSH standards in addition to many related regulations, bylaws, and decisions.

Chapter IX of the Labor Code emphasizes the need to define OSH requirements in the workplace by virtue of specific regulations to be issued for this purpose. Many such regulations have been issued in 1997 and 1998 but were left without any updates until the 2023 promulgation of Regulation No. 31 of 2023 on "the occupational safety and health system and prevention of occupational hazards in institutions", relying on modern standards to assess risks and hazard levels of occupations and the duty by the employers to provide a professional risk-free setting. It was followed by the promulgation of Regulation No. 32 of 2023 (on therapeutic and medicinal Medical Care), and Regulation No. 33 of 2023 on (Formation of OSH Committees and appointment of supervisors in institutions).

The Agricultural Workers Regulation provides for observing OSH conditions at agricultural worksites pursuant to instructions by the Minister of Labor³⁶, OSH instructions for the agricultural sector were issued by the MOL in 2021 to outline

³⁶ Article 11 of the Regulation.

the necessary OSH measure and prevention from mechanical, physical, electric, biological, chemical, and fire-related hazards. Employers are now bound to provide PPE for protection against agricultural hazards and occupational diseases, including gowns, goggles, gloves, boots, and the like; it is also binding to conduct the preliminary medical examination of workers prior to employment to ensure they are fit for work and that they have communicable or infectious diseases in addition to regular medical checkups for early detection. Employers shall cover the cost of these medical examinations³⁷.

In a legislative precedent. The 2021 OSH instructions at Institutions makes it mandatory for employers to apply the necessary measures to protect workers on route to the farm since Jordanian laws do not address transport of workers. For the first time ever, labor inspectors are given the powers to oversee transport-related protection measures the employer provides. Additionally, article 9 of the Agricultural Workers Regulation provides that employers shall pay for a decent dormitory as accommodation for agricultural workers and other amenities as needed and prompted by the actual needs at work or if stipulated in the contract. The Regulation also mandates the Minister with the powers to designate the hours during which work should stop during extreme weather elements. These matters have not been addressed in the Jordanian labor-related laws.

<p>“There was a car accident at Nayfeh; 9 workers died; some of them were our relatives. They were all agricultural workers working in picking apricots and peaches.”</p> <p>A Syrian agricultural worker</p>	<p>“Although the employer can afford transporting 20 workers in two small vans, he would rather save and cram them all in one van only.”</p> <p>A Jordanian female agricultural worker</p>
<p>“A domestic worker fell a couple stories down as she was cleaning the windows upon her employer’s request.”</p> <p>A Sri Lankan female domestic worker</p>	<p>“We use many chemical cleaning products that cause skin rash; we are never provided with protective gear like gloves.”</p> <p>A Sri Lankan female domestic worker</p>

³⁷ Article 4 of the OSH instructions.

However, these regulations are yet to be enforced as should be. The sector continues to be distant from applying OSH oversight and other labor protections. It could be attributed to lobbying by employers as they push the government to exclude agricultural workers from coverage in labor and social security laws – given the limited availability of labor inspectors specialized in OSH standards across sectors.

Labor inspection and OSH instructions in the agricultural sector also lack details about GBVH protections at the workplace; they also lack reference to psycho-social wellbeing and suffice with just prompting employers to heed health arrangements at worker dormitories and facilities pursuant to the relevant legislation when available³⁸, otherwise they would be referred to the provisions of the regulations on preventing health hazards resulting from residential labor units waste No. 1 of 2013, issued under the Public Health Law. Generally, employers do not adhere to these regulations due to the financial burden they entail and the lack of qualified or trained inspection staff to enforce them.

<p>"Some workers become allergic or poisoned as they spray pesticides."</p> <p>A Jordanian female worker</p>	<p>"We need to wear knee-high safety boots; we pay for them from our own pockets; they cost around 15-20 JD."</p> <p>Egyptian agricultural worker</p>	<p>" We need masks and coveralls; they are basic PPE but we buy the basic versions from our own pockets; they are not very protective."</p> <p>A Jordanian female agricultural worker</p>
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Article 4 of the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories refers to providing decent work conditions and health care but nothing more; it does not make it binding for employers to observe OSH standards as provided for in related laws and regulations.

³⁸ Article 4 (j) of the Regulations on OSH measures at agricultural workplaces (2021).

Upon promulgation of the Regulations on Insurance Policies for Domestic Workers in 2021, it has become binding for employers to subscribe and provide the following insurance coverage in death (regardless of the cause), worker accidents during work, repatriation of the body of the deceased to their country of origin or paying for burial cost inside Jordan, hospital health insurance, and financial losses incurred by the employer or recruitment agency due to absconding, rejecting to work, or quitting, however, these insurance schemes are not enforced, and insurance companies only cover death cases without any medical insurance.

III. Recommendations:

- 1- Enhance inter-agency government coordination on Osh matters, including MOL, MOH, SSC and Civil Defense in addition to operationalizing inspection mandates at enterprise facilities, worker dormitories, and transportation.
- 2- Ratify OSH-related ILO conventions, including C155 (OSH), C161 (occupation health services), C170 (Safe Use of Chemicals), and C129 (Labor Inspection in Agriculture) to further improve related Jordanian standards.
- 3- Amend the Regulation on domestic workers to include employers' mandatory provision of health insurance for their workers, and the need to provide OSH standards at the workplace, coverage in social security and work-related injuries.
- 4- Provide technical support for farm owners to help them adhere to OSH requirements.

Theme VI

Labor Inspection

Labor inspection is considered the optimal means to achieve decent work on the ground; it is a destination for labor protections and better work conditions pursuant to the various regulations – in the sense that they are the bare minimum standards that should be always observed. Labor inspection is also key to combating gender discrimination in wages, bridging the gender gap at work, contributing to the collection and analysis of information about disparities to set the necessary rectifying course.

Labor inspection is also a key government service provided to workers and employers alike, helping them apply labor code provisions, regulations, and instructions. It is also a means of communication to enhance social partners' awareness and guide them to the best ways to apply the law, enhance gender equality through practical steps, establish measuring systems, and monitor and evaluate progress toward achieving the set goals.

I. International Instruments and Conventions:

The 1947 ILO Labor Inspection Convention (C81) is considered the foundation and backbone of inspection standards and regulations; countries consult the Convention as a guidance for best ways to develop their national labor inspection regimes.

The 1969 Labor Inspection (Agriculture) Convention (C129), and Recommendation also laid the foundations for labor inspection of the agricultural sector, calling on authorities to oversee and supervise such sectors.

II. National Legislation:

Articles 5 through 9 of the Labor Code enhance the role of labor inspection in controlling the enforcement of the law and related regulations. Article 14 of the Agricultural Workers Regulation provides for labor inspection bodies to oversee the application and enforcement of the provisions therein.

In this regard, the instructions on the Inspection Procedures in Agricultural Activity were promulgated in 2021 and outlines the types of inspection, requirements to be checked during onsite visits, and the procedures to be applied by labor inspectors during the visit.

No positive impact on the agricultural sector can be observed so far regarding the protections and rights provided for in the Regulation. This could be attributed to lack of proper enforcement of inspection, shortage of labor inspectors, poor administrative capacity, lack of balanced geographical distribution of assets across all agricultural workplaces, and lack of awareness among workers about the role of labor inspectors in securing their labor rights – prompting them not to cooperate and come forward with complaints.

<p>“Our greatest suffering is with wage theft; there is no labor inspection, and MOL procedures only pertain to filing complaints online before deciding whether to dispatch a committee or not.”</p> <p>Jordanian female agricultural worker</p>	<p>“There are no inspectors in the Jordan Valley area; I do not know what HIMAYA platform is, nor do I know how to use it.”</p> <p>A Syrian female agricultural worker</p>
<p>“(female) domestic workers do not go to labor inspectors out of fear or ignorance; they are never educated when recruited about this option, and then there is also the language problem.”</p> <p>A Sri Lankan female domestic worker</p>	<p>“ Our working conditions are poor, the places where we stay are bad, and there is no labor inspection; we eat leftovers from the family’s meals and sleep in spots not fit for sleep.</p> <p>A Bengali female domestic worker</p>

According to the domestic workers Regulation, labor inspectors do have the power to inspect the employer's place (worker's accommodation); however, it is extremely restricted that authorities cannot effectively conduct control and oversight in this large sub-sector. They cannot check on legal employment and protection of rights as should be, given the fact that labor complaints require the defendant's (employer's) approval to allow the house visit, or obtaining a special order from the judicial authorities since these are private homes and their privacy is protected by law. The outcome is that the labor inspection process is rendered defunct, and regular onsite visits are extremely difficult absent a complaint filed³⁹ – unlike the other sectors.

III. Recommendations:


1. Ratify C129 (Agricultural labor inspection).
2. Increase inspection visits to farmer-and-worker-dense areas to monitor enforcement of the laws.
3. Provide awareness tools to educate workers on how to access labor inspectors and filing of complaints before administrative and judicial bodies.
4. Increase the number of labor inspectors and provide them with the logistics to assist them in inspection while training them on how to deal with the specific setting of farms and agricultural holdings.
5. Amend the Regulation on Domestic Workers to allow labor inspectors to conduct regular house inspection visits without having to wait for a complaint to be filed.
6. Make labor inspection includes inspection of modes of transporting workers to and from the dormitories and workplace whether they were located outdoor or inside buildings.

³⁹ Article 11 of the Regulation on Domestic Workers, Cooks, Gardeners, and Similar Categories.



THE NATIONAL CAMPAIGN FOR AN ALTERNATIVE LABOR MIGRTION MODEL

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