

# **The Legal Framework of Forced Migration and Refugee Movements in Jordan**

**By  
Mohamed Y. Olwan**

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# Discussion Paper

## The Legal Framework of Forced Migration and Refugee Movements in Jordan

Mohamed Y. Olwan  
*Faculty of Law, Yarmouk University*

### I. Introduction

Jordan is a country of both immigration and emigration. It is a destination country for migrant Arab workers, especially Egyptians who work in occupations shunned by Jordanian citizens such as construction and agriculture, foreign domestic workers from different countries, particularly from Sri Lanka, Indonesia and Philippines, and migrant workers in Jordan's qualified industrial zones (QIZs) who come from Bangladesh, Sri Lanka, India, and China. Jordan also serves as a transit country for South East Asians recruited with fraudulent job offers in Jordan who are trafficked to work involuntarily in Iraq.<sup>1</sup>

The Kingdom follows a relatively open and liberal policy in regards to migration and immigration. As an origin country, Jordan supports the immigration of Jordanians for employment purposes, especially to the gulf region. The Jordanian economy is heavily dependent on the remittances sent by Jordanians working abroad to their families and relatives. As a receiving country, the Jordanian labor market is still seeking to attract a bigger foreign work force.

Jordanian laws governing international migration are becoming more and more restrictive. These restrictive legislative policies, however, have not stopped or decreased illegal presence and irregular work positions. A total of 261,000 (around 74% of the expatriate workers population) have valid work permits (i.e., around

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<sup>1</sup> U.S. State Department Trafficking in Persons Report, June 2007, <http://gvnet.com/humantrafficking/Jordan8/9/2007>.

<sup>2</sup> The National Center for Human Rights (NCHR), *The Status of Human Rights*. 34 (2005)

90,000 male and female workers are unregistered and without work permits, according to the Labour's Ministry's records).<sup>2</sup>

Jordan is not in favor of permanent migration. Instead, it appears that the new trend is to favor more circular migration in the country. This is apparent in the new entry, stay and exit laws and regulations pertaining to domestic workers, the workers in QIZ and workers in the agriculture and construction sectors. These three questions are explored after giving an idea about the right to nationality, asylum, residency and work. Moreover some recommendations will follow the examination of these seven topics.

## **II. The Rights to Nationality**

Article 5 of the Jordanian constitution stipulates that "Jordanian Nationality shall be defined by law." Nevertheless, and in contradiction with this provision, the Government issued on the 31<sup>st</sup> of July 1988 the Administrative and Legal Disengagement from the West Bank decision. This decision led to the deprivation of a large number of Jordanians of Palestinian origin from their right to Jordanian citizenship.<sup>3</sup> According to the regulations, the place of residence has been the criterion that determines whether an individual is still a Jordanian citizen or has become a Palestinian. Article two of the Instructions stipulates that "every individual who was residing in the West Bank before the 31<sup>st</sup> of July 1988 is a Palestinian, not a Jordanian citizen." This stipulation has been expanded to include the following categories: (a) individuals who obtained passports issued by the Palestinian Authority; (b) individuals working in Palestinian Authority institutions; (c) individuals who hold "family reunion" documents; and (d) individuals who had been residing in the East Bank before the issuance of the Instructions.<sup>4</sup>

The Disengagement Decision and the Instructions issued therein are not more than administrative decisions; deciding the status of citizenship based on administrative decision is, however, a violation of the provisions of Article 5 of the constitution and the citizenship law number 6 of 1954. Both legal instruments do not include any provision whatsoever that allows for withdrawing of citizenship by any administrative decision. (It is unfortunate that the law contradicts decisions taken by the Minister of

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<sup>3</sup> Mohamed Olwan, "Jordan: the legal dimension of international migration", in Philippe Fargue (ed.), *Mediterranean Migration 2005 Report*, p. 150.

<sup>4</sup> The National Centre for Human Rights (NCHR), *the status of Human Rights in the Kingdom, 2005*, p.12.

Interior, or any other official, in matters related to citizenship before the High Court of Justice, are not resolved to the satisfaction of claimants.<sup>5)</sup>

Jordanian citizens receive passports that are valid for five years. Jordanians of Palestinian origin are citizens and they receive the same kind of document. However, around 150,000 former residents of the Gaza strip living in Jordan are not qualified for citizenship and they are given two-year passports valid for the purpose of travel. West Bank residents without other travel documentation are eligible to receive five – year passports which do not connote citizenship.<sup>6</sup> It is noteworthy also to mention that married women do not have the legal right to transmit citizenship to their children.

### **III. The Right to Asylum**

The Jordanian constitution stipulates that "political refugees shall not be extradited on account of their political belief, or for their defense of liberty. Jordan does not, however, have any national legislation pertaining to the status and treatment of refugees. Conversely, Jordan has been cooperating with the Office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees and asylum seekers since an agreement and a memorandum of understanding (MOU) was signed between the two parties in 1997 and 2003.<sup>7</sup> It should be noted that the Iraqis and the Palestinians living in Iraq are concerned with the right to asylum to Jordan.

#### *The Growing Iraqi Refugee Problem*

The UNHCR estimated that four million Iraqis have fled the violence in Iraq, including those who left before the 2003 US-led invasion. An estimated 1.5 million sought refuge in Syria and 750,000 are residing in Jordan. It is also estimated that some two million Iraqis have left the country since the 2003 invasion to find refuge outside the country, while another two million have fled their homes for safer areas within Iraq and have become displaced within their own country.<sup>8</sup>

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<sup>5</sup> NCHR, The status of Human Rights in the Kingdom, 2006, p.28.

<sup>6</sup> U.S. Department of State: <http://www.state.gov/9/drl/rls/hrtpt/2006/78855.htm> 8.9.2007

<sup>7</sup> Mohamed Olwan, "Jordan: the legal dimension of international migration", in Philippe Fargue (ed.), Mediterranean Migration 2005 Report, p. 152.

<sup>8</sup> <http://www.souria.com> 8/92007. The Jordan Times 7,8,14 August 2007. Jordan commissioned in may 2007 a survey to determine the exact number of Iraqis in its territory. The government commissioned report by the Institute for Applied International studies (FAFO) foundation, a Norwegian research Institute was due to be released in July 2007 detailing the number of Iraqis in Jordan, their living conditions and impact on the economy, but the report has not yet been made public. See the Jordan Times Daily Newspaper, 7 and 8 July 2007.

The huge influx of Iraqis fleeing their country had profound impact on the two main host country's economy. Schools, medical facilities, public services and infrastructure are seriously overstretched because of the presence of millions of Iraqis. In May 2007, Jordan estimated that hosting Iraqi refugees is costing the kingdom around \$1 billion a year. The UNHCR appealed for a \$123 million to provide assistance and support to both countries, which together host more than two million Iraqis.<sup>9</sup>

Several international conferences have discussed the ways of helping the two countries sheltering Iraqis who have fled the violence in their country.<sup>10</sup> However, donors countries are not doing enough to help Syria and Jordan deal with Iraqi refugees and the two countries are still awaiting assistance despite pledge of support.<sup>11</sup>

It is noteworthy that Jordan refuses to recognise Iraqis residing in Jordan as refugees because they do not meet the criteria of refugees as stated in the 1951 convention relating to the status of refugees. Instead, Jordan describes these Iraqis as "guests," although this term has no legal significance.

Most Iraqis in Jordan have not requested refugee status (So far, only 900 Iraqis have received refugee status.) According to UN figures, only around 30,000 Iraqis in Jordan have been given asylum-seekers' documents and are currently awaiting a third country to host them.<sup>12</sup> The UN document for these Iraqis certifies that its Iraqi holder is a bona fide asylum seeker. It allows them eventual re-settlement in a third country and states that they should be protected from deportation, but it does not allow them to work legally in the host country. (The Jordanian authorities have tolerated the prolonged stay of Iraqis beyond the expiration of a maximum stay of six months given to those who are classified by the UNHCR as asylum seekers, according to the MOU, and beyond the expiration of the visit permits.)

Despite the fact that the flood of Iraqis leaving their country is swelling rather than slowing, only 2,673 Iraqi refugees have been re-settled in third countries according to

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<sup>9</sup> The Jordan Times 20.7.2007.

<sup>10</sup> The Jordan Times 7.8.2007.

<sup>11</sup> The Jordan Times 8.7.2007.

<sup>12</sup> This is a little number if we know that UNHCR receives an average 90 applications per day from Iraqis seeking asylum documents. The Jordan times 22 – 23 June 2007.

the UNHCR.<sup>13</sup> These countries include Australia, Britain, Canada, Denmark, the Netherlands, New Zealand, Norway, Sweden, and the United States.

Since the beginning of the US-led war until the end of 2006, the USA, which has a particular responsibility to respond to this crisis, has absorbed only 764 of an estimated 2.5 million persons who have escaped Iraq. The US has come under wide criticism for its reluctance to accept large number of refugees; however, Washington is expected to take in several hundred additional refugees to the US within the next coming weeks.<sup>14</sup>

Syria and Jordan are complaining, more and more, from the flow of Iraqi refugees. They decided, therefore, to limit the entry into their territories. As of September 10th 2007, Iraqi nationals wishing to enter Syria must first obtain a visa. The visa is given to those who are going for economic, trade and educational purposes. After introducing several restrictive border entry procedures<sup>15</sup> Jordan has also decided to require a visa of entry from Iraqis who wish to enter the kingdom. The Jordanian and the Syrian decisions are meant to stem the flow of Iraqis refugees into Jordan and Syria.<sup>16</sup> They are in contradiction, however, with the obligation of the two countries under International law to allow entry to those seeking protection from persecution.<sup>17</sup>

#### *Jordan's Decision to Allow Iraqi Children to Enroll in Public Schools*

On the 7<sup>th</sup> of August 2007, the Jordanian Ministry of Education decided to allow school-age Iraqi children to enroll in the kingdom's public schools without the need to have a residency permit for the beginning of the scholastic year 2007-2008. Until recently, only students holding residency permits were allowed to enroll in public schools. As a result, only around 14,000 out of an estimated 200,000 Iraqi school-aged children were enrolled in Jordanian schools during the scholastic year 2005-2006.<sup>18</sup> (The Ministry of Education estimated first that public schools will accommodate around 50,000 new Iraqi students, and it extended two weeks a

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<sup>13</sup> The Jordan times 22 – 23 June 2007.

<sup>14</sup> The Jordan Times 16.8.2007.

<sup>15</sup> [http:// web.amnesty.org/library/index](http://web.amnesty.org/library/index).

<sup>16</sup> The Jordan Times 3.9.2007.

<sup>17</sup> <http://web.amnesty.org/Index> 10.Oct.2007; <http://web.amnesty.org/library/Index> 10.Oct.2007.

<sup>18</sup> This number is estimate since there is so much movement and little official registration. It is worthnoting that according to a UNHCR press statement 375.000 Iraqi children living in Jordan, Out of Iraqi citizens hosted by the country. The Jordan Times 22.8.2007; <http://web.amnesty.org/library/Index> 10.10.2007.

September 15 deadline for them to enroll in public schools, as UN organizations reported a below expectation turnout on registration.) The new decision was meant to help students who are having problem accessing the necessary official papers. In the end, the Ministry decided that even children without papers are still entitled for enrolment, but only 7,000 new Iraqi children have enrolled thus far.<sup>19</sup>

The low turnout can be explained by the fact that Iraqi families who have overstayed their visas and live in fear that they will be caught and sent back to their country are not willing to enroll their sons into schools. The low turnout can also be attributed to the fact that many Iraqi families have their children working in Jordan, which is related to the fact that many families cannot pay the 20-30 Jordanian dinar fee for primary or secondary education.

The Jordanian decision is welcomed by NGO'S such as the New-York based Human Rights Watch (HRW) and by international organizations such as the (UNHCR).

Jordan called for immediate and direct assistance to help it cope with the burden of admitting tens of thousands of Iraqis to State schools. The UNHCR and the United Nations Children's Fund (UNICEF) issued in July 2007 a joint appeal for \$129 million to be distributed among the host countries that are providing schooling for Iraqi children, that is to say Jordan, Syria, Egypt and Lebanon. Following the UN appeals, a grant agreement signed on 29 of August.2007 between Jordan and the UNHCR provided a \$10 million grant to support the kingdom's educational system.<sup>20</sup>

On the other side, the US announced a \$30 million contribution to assist Jordan, Syria, Egypt and Lebanon defray the cost of educating Iraqi children residing in these countries (approximately 500,000 children). The \$30 million pledge for four Arab countries is not nearly enough; Jordan, moreover, is still awaiting assistance despite pledges of support.

#### *Palestinians Stuck on the Iraqi -Jordanian Border*

The presence of Palestinians in Iraq dates back to 1948 when thousands of Palestinians fled to the country due to the violence which accompanied the newly created State of Israel. Around 30,000 Palestinian refugees lived in Iraq until the invasion of Iraq in 2003. After the fall of the former regime, these refugees were

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<sup>19</sup> The Jordan Times Daily Newspaper 14.9.2007. The Jordan Times 26.8.2007

<sup>20</sup> The Jordan Times Daily Newspaper 30.8.2007.

subjected to gross human rights abuses and targeted by some of the Shia militia men and by the government security forces. This situation led Palestinian refugees in Iraq to seek refuge in neighboring countries; they were unable, however, to gain entrance to most of these countries. Instead, half of the Palestinians carrying Iraqi documents fled Iraq and thousands of them sought refuge at the borders of Syria and Jordan. Jordan was among the first countries to open its borders to refugees fleeing the USA-led occupation of Iraq. To host the refugees, three camps were allocated, including two inside Jordanian territory at Al-Ruwished and a third at Karama, in the no-man zone between the Jordanian and Iraqi borders. Al-Ruwaished camp, situated in a remote desert area in Jordan's far east about 85 kilometers from the Iraqi border, hosted more than 2.000 people during the first days of the war. The camp also hosted the first Palestinians fleeing Iraq before Jordan decided to shut its border completely to Palestinians asylum seekers for fear of attracting more refugees from the war-torn country. Over the past four years, most of the Sudanese, Somalis, Iranians, Kurdistanis, Iraqis and Palestinians have been resettled in third countries including the Scandinavian countries, Canada, New Zealand, Australia, Ireland, and the USA. Others returned to Iraq or their countries of origin. Palestinians could not return to their homeland because of the refusal of the State of Israel and they could not return to Iraq for fear of retaliation from Iraqi armed groups; hundreds of Palestinians married to Jordanian wives, however, have been allowed to settle in the kingdom. Moreover, after spending over four years languishing in the camp, 100 Palestinian refugees carrying Iraqi documents will finally be resettled in Brazil. The Al-Rwished camp, established after the U.S. led war in Iraq is scheduled to close in September 2007.<sup>21</sup>

In regards to the camp of Karama, a group of 194 Iranian Kurdish refugees have been stuck in the no-man's land between Iraq and Jordan and have been denied entry to Jordan. These refugees, among others, fled Iran after the Islamic Revolution of 1979. They lived in a refugee camp near Ramadi until 2005 when they decided to leave the camp after attacks by insurgents. More than 650 of Kurds were resettled abroad, but 194 of them remain in the camp.<sup>22</sup>

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<sup>21</sup> <http://www.lrimnews.org>.8.9.2007.

<sup>22</sup> The Jordan Times Daily Newspaper 19.8.2007.



On the other side, on the border between Iraq and Syria, live hundreds of Palestinians who fled the US war to find themselves stranded in no home land. It is worth noting that Sudan announced on 30 August 2007 its readiness to host Palestinians fleeing Iraq and held up at the country's border with Syria and Jordan. The Sudanese offer comes from a country hosting the largest internally displacement population in the world.

#### **IV. The Right to Residency**

The Jordanian Constitution guarantees the right of nationals to enter Jordan. As for foreigners, the Law on Residence and Foreigners' Affairs (Law 24-1973) stipulates the conditions under which a foreigner may enter the Kingdom; that is, he/she can only be granted entry with a valid passport or travel document and an entry visa. However, the Ministry of Interior may exempt any foreigner from these requirements.

Any foreigner wishing to stay in the country must obtain a resident permit. He has to leave the Jordanian territory upon expiry of the residence permit unless he has renewed it. Any illegal foreigner is liable to a fine but exemptions are possible. Foreigners may be expelled if they enter the country illegally or if they are convicted of a serious crime while in the country. The decision to expel can also be taken if the measure will preserve the security of the State. According to the law, the Ministry of Interior has the right to accept or reject a foreigners' application for a residence permit and to revoke his/her residence permit and ask him/her to leave the country without specifying the reasons behind its decision.

The absolute power of the Ministry to deport foreigners has negative effects. For instance, deportations of foreigners who are married to Jordanian women have been reflected on their Jordanian spouses and children. The foreign wives of Jordanian citizens are sometimes denied residence in the country. Foreigners are also frequently deported even if they are married to Jordanian women in cases where a court verdict is passed against them, irrespective of the type of offence.<sup>23</sup>

In 2005, about 23,961 foreigners were deported, but in 2006 this figure witnessed a decrease reaching 10,625 foreigners. It should be noted that deportation procedures are very slow and a fine must be levied from the foreigners who exceed the term of

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<sup>23</sup> CNRS, *The status of Human Rights*, 2005, p.22.

their residence permit. The deportation order must also be executed only after this fee has been paid or the Ministry of Interior issues an order approving exempting the violators of payment. Otherwise, they are detained administratively by the administrative governors until the exemption decision has been issued. This process sometimes takes as long as several months; this constitutes a flagrant infringement upon their personal liberty.<sup>24</sup>

The expulsion or deportation decisions are administrative decisions and as such they are subject to judicial review before the High Court of Justice in accordance with Law 19 of 1992. But it is unfortunate that the law contradicts decisions of the Ministry of Interior in matters related to residency before the High Court of Justice has proved, as in the case of citizenship, to be of no use. The upper court rulings only uphold the Ministry's decision and it always takes the view that the Ministry has an absolute authority to deport any foreigner without specifying the reasons.

It is clear, then, that the Residence Law needs to be amended so that the deportation in some cases can be stopped and so that deportees are given enough time to defend themselves.

## **V. The Right to Work**

The Jordanian constitution states in Article 23 that work is the right of every citizen and the State provides opportunities for work to all citizens by directing the national economy and raising its standards. It further states that the State shall protect labor and enact legislation based on several principles specifying that every worker shall receive wages commensurate with the quantity and quality of his work and that the number of hours of work per week shall be reasonably defined with workers given weekly annual days of paid rest. It also specifies that 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. The Jordanian constitution also states that factories and workshops shall be subjected to health safeguards while free trade unions may be formed within the limits of the law.

In fact, Article 23 of the Jordanian constitution on the right of work is in harmony with the principles included in the International Covenant on Economic, Social and

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<sup>24</sup> CNRS, *The status of Human Rights*, 2006, p.31

Cultural Rights and particularly Article 7 of the Covenant. In many aspects, furthermore, the Jordanian constitution is aware of the International Labor Organization (ILO) standards of "suitable work" which include "productive work, wherein rights are protected, which generates sufficient income and provides adequate social protection."

Since the promulgation of the Jordanian labor Law No. 8 (of 1996), the law has been amended several times in response to the needs of the labor market on the one hand, and to Jordanian commitments to international labor conventions to which Jordan became party on the other. The Law views the labor rights stipulated therein as representing the minimum that may not be disparaged and considers null and void any contract in which a worker comprises any of these rights. It entrusts the task of monitoring implementation of the provisions of the law to labor inspectors, upon whom it bestows judicial police capacities as they perform their tasks. In addition, the law entrusts the Ministry of Labor (MOL) with the tasks of organizing the labor market, creating job opportunities for Jordanians and licensing offices specialized in employing and organizing the work of non-Jordanian workers. It authorizes a special mixed committee composed of workers and employees, working under MOL supervision, to determine the minimum wage that guarantees an adequate standard of living for the worker. It also specifies daily and weekly working hours and obligates employers to pay extra wages to workers who work overtime or during official and religious holidays, entitles workers to various leaves of absences and, finally, regulates conditions for employing women and juveniles.

Jordan applies stricter rules to the admission of a foreigner for purposes of work because of the socio-economic conditions prevailing in the country. Certain categories of employment such as the public and government sectors, the professions and occupations connected with national security or defense are reserved for Jordanian nationals. Article 12 of the Labor Law deals with the recruitment of non-Jordanian workers. It requires the approval of the MOL for this recruitment, provided that the work requires experience and capacity which Jordanian workers are lacking. According to the Article, priority shall be given to Arab workers. The non-Jordanian worker employer must obtain a work permit from the MOL prior to his recruitment. The period of the permit is one renewable year. The MOL shall charge the employer a fee for the issuance or renewal of the work permit. Moreover, an additional amount is

required for the issuance or the renewal of the permit. This additional amount is stipulated in an amendment to Article 12 enacted in 2006, and it is directed to the fund for the support of educational and professional training.

The Article adds that the employer shall be penalized by a minimum fine of JD 50 and not more than JD 100 (J.D.100 to JD 150 according to the new amendment of 2006) for every month or part thereof for every non-Jordanian worker who is recruited in a manner violating the provisions of the law. The worker who is in violation of the Article shall be deported outside the Kingdom at the expense of the employer. The non-Jordanian deportee worker is not permitted to return back before three years from the date of the deportation.

Despite positive aspects provided in the Jordanian constitution and in the Jordanian labor law, there are many reasons and factors which negatively influence the enjoyment of workers' rights. It is regrettable first of all that the labor law excludes different categories from its scope of application such as agricultural workers and domestic workers. Needless to say, the extension of provisions of the labor law to cover agricultural and domestic workers is a priority.

Article 28 of the labor law restricts the rights of workers to practice the right to strike in various forms and there is a need to liberate this Article of its restrictions on the workers' right to strike.

Article 23 of the labor law restricts the freedom of association and it is in contradiction with International conventions. Migrant workers are not allowed to join worker unions, and, as a result, foreign migrant workers are banned from joining the 17 nationwide unions of the country. Jordan needs to ratify ILO convention No. 87 (1948) on "freedom of association and protection of the right to organize" and ILO convention No 154 (1981) on "collective bargaining" and to amend the labor law accordingly. It is noteworthy that restrictions on the freedom of association include Jordanian citizens because association is still denied to teachers who constitute around 50% of all public sector employees. Needless to say that denying the right to join worker unions to the citizens as well as to the foreigners is in contradiction with the standards of the ILO according to which this right is recognized to all workers regardless of their nationality.

## **VI. Legal Status of Foreign Workers in Jordan**

Egyptian migrant workers constitute the majority of foreign workers in the country. For this reason, we will start by examining the status of Egyptian workers and we will follow it with the crackdown on illegal workers, whatever their nationality, and by the new regulations on foreign worker recruitment.

### *The Memorandum of Understanding between Jordan and Egypt*

A memorandum of understanding was signed between the MOL of Jordan and the Egyptian Ministry of Manpower and Immigration on 29 March 2007. The two signatories agreed that the memorandum shall enter into force within two months from the date of signature. The memo regulates the entry of Egyptian laborers to Jordan based on the needs of local labor market and in particular the need to provide more employment opportunities for Jordanians.

The memo specifies the sectors in which Egyptians are allowed to work, in addition to requiring them to undergo compulsory medical tests. They are also required to produce police clearance reports (Article 1). Under the memo Egypt is required to keep a computerized database containing the names of workers who wish to work in Jordan according to the needs of the Jordanian side provided that the Jordanian side has electronic access to that data (Article 2). The memorandum also states that the Jordanian side will provide the Egyptian side with the names of the Egyptian workers who are selected by the employers after paying work permit charges and copies of their contracts to complete the signing of the workers to be returned to the Jordanian side, provided that the permit will enter into effect from the date of entry into the Kingdom, which is stamped on his/her passport (Article 3). Moreover, the Egyptian side will call workers who were selected to work under listed contracts and stamp their passports with the name of the employer and the sector in which s/he will work. Entry to Jordan will be through the Nuweiba crossing point, and the Egyptian side will take the necessary action to ensure that entry into the Kingdom will be during the period not exceeding one month from the date of dispatch of labour contract (Article 4). Both sides will provide their own border controls with the names of the workers who will cross into Jordan (Article 5).

According to the memorandum, the Jordanian side will collect an amount of (250) dollars or the equivalent in Jordanian dinars from each worker as an insurance that will be refunded to the worker after the completion of procedures of the issuance of work permit to the importing employer; both must commit to complete the procedures within one month from the date of entry (Article 6). The Egyptian side also commits to issuing bulletins to workers coming to Jordan to familiarize them with the procedures that must be followed as soon they enter into Jordanian territory such as that the worker may only work with the importing employer otherwise s/he will be under deportation proceedings (Article 7).

No Egyptian worker who is coming to Jordan for visiting, pilgrimage, or transit purposes will be granted a work permit, and the Egyptian side is to prevent the exit of any person for purposes of work to Jordan, except in accordance with the agreed procedures between the two countries (Article 8). Also, the two sides commit to activate the role of the Tripartite commission set up in the eighth article of the agreement signed between the two sides in 1985, to take the necessary measures to implement this memorandum (Article 9).

The MOL has formed an advisory commission to follow up on the implementation of the agreement. This commission is headed by the secretary general of the ministry and includes representatives from the private sector. It has decided to print and distribute brochures for incoming Egyptian laborers explaining the new procedures. It is also concerned with focusing local market demand in terms of number and professions of needed foreign workers.

#### *Suspension of the Entry of Egyptian Workers*

In mid-April of 2007, and in line with the terms of the memo, the MOL temporarily suspended the entry of Egyptian workers into the Kingdom. The decision came after years of Jordanian open immigration policy for Egyptians who were permitted to enter Jordan with nothing more than their passports and without first having to obtain a visa. The Ministry gave illegal residents a grace period to enable them to legalize their situation in accordance with the labor and residency laws, and that is either by applying for a new work permit or by switching to permitted vocations. During the period of status correction which ended on May 31 2007, and was renewed till June 21, 2007 due to the number of applications the MOL received, in coordination with

the Ministry of Interior, stopped tracking and prosecuting the illegal foreign workers and their role was limited to guiding and urging them to correct their status.

The grace period was limited to the professions that are permitted to expatriates and does not include closed professions. People who entered the country for the purpose of visiting or pilgrimage and do not have work permits, people with expired import contracts who have not yet completed procedures for the issuance of the permit and those who desire to move within the same sector or from one sector to another and have expired work permits or append release from the employer in the case the permit is still valid can all benefit from the grace period.

During the grace period thousand of work permits were issued (83,108). Egyptian workers got the highest number of permits with 66,000 permits and the majority of permits issued during this period were for security guards at residential buildings. The cleaners or "janitor" work permits are given to residential buildings workers, provided that the employer is a resident of the building and not more than one worker is granted a permit for the same building.<sup>25</sup>

For Egyptian workers another road to the Jordanian labor market might be through the sponsorship of the Egyptian Embassy. Those who were unable to rectify their status during the grace period were called by the Embassy, in co-operation with the MOL, to submit their passports and expired work permits to the embassy between June 10 and 21 2007. Thousands of work permits (13,000) had been allocated for the Egyptian embassy. These work permits are issued to day laborers whose permits have expired and who were not contracted to work for a specific employer or could not rectify their status during the grace period.

#### *Crackdown on Illegal Workers*

In mid-July, 2007 and following the end of the grace period, labor inspectors in cooperation with the Public Security Department launched an inspection campaign to insure workers and employers are abiding by labor and residency laws. Employers found recruiting illegal workers are liable to fines ranging from JD 100- JD150 per laborer and are not allowed to hire foreign workers in the future. As for workers who do not have valid work permits, they are placed in custody pending deportation. The

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<sup>25</sup> <http://www.mol.gov.jo/news/Article>Edit.aspx?id:301>.

decision of deportation is decided by the MOL in case the worker is violating labor law.

In case the violation is related to law of residency, the decision of deportation is decided by the administrative governor. The deportation takes place once the illegal workers have cleared all outstanding debts and have received all salaries owed to them from employers.

So far, more than 6,000 of illegal foreign labourers were held in the detention centers of the public security department awaiting deportation to their countries.<sup>26</sup> Detained foreign workers are either illegally staying in the country or they are found in violation of work permit regulation. So far also, a total of 2,000 illegal foreign workers found in violation of the labor and residency laws have been deported.<sup>27</sup> Most of the deported workers are Egyptians; Syrians formed the second the largest group.

Illegal workers are detained in conditions that often violate basic human rights, but those detained are not automatically deported; a good percentage of them are not deported. A follow-up committee set up by the MOL deals with complaints, pays regular visit to detention centers and interviews workers in custody to check on their condition and their claims of mistreatment. The decisions of detention and deportation of illegal foreign workers are cancelled in specific cases for humanitarian reasons. These cases include the case of foreign workers married to Jordanians, patients undergoing hospital treatment and illegal workers who have children enrolled in schools.<sup>28</sup>

Illegal workers have 30 days to rectify their status and laborers who have already applied to the Egyptian Embassy for a work permit under its guarantee scheme are given a one week grace period before being deported.

It is noteworthy that the campaign targeted all illegal foreign workers in the Kingdom except those working in Aqaba Economic Zone<sup>29</sup> and the QIZs. The crackdown will

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<sup>26</sup> AL Rai Daily Arabic newspaper 3.9.2007 ,The Jordan Times 17.9.2007.

<sup>27</sup> AL Rai Daily Arabic newspaper 3.9.2007 ,The Jordan Times 17.9.2007.

<sup>28</sup> The ministry's follow-up committee has cancelled so far the deportation of 350 cases for humanitarian considerations. The Jordan Times, 17.9.2007.

<sup>29</sup> The Aqaba special Economic zone (ASEZ) was launched in 2001 as a duty free, low tax multi-sectoral development zone. It encompasses an area of 375 km<sup>2</sup> and offers global investment opportunities. <http://www.Jordanian-vestment.com>



last until the end of the year, but it will be suspended during the holy month of Ramadan.

Nowadays, the Egyptian work force in Jordan is estimated at more than 216,000 out of a total of 313, 547 foreign workers, according to the latest MOL figures.<sup>30</sup> There are furthermore, around 100,000 foreign laborers working in the country illegally; the number of Egyptians illegally working in Jordan is far above 10,000. All illegal workers are vulnerable to exploitation by employers and officials alike.

As of August, 2007, Jordanian employees who wish to recruit Egyptian workers were able to access applications submitted by work-seeking Egyptians on the Ministry's website. The website provides employers with the needed information on the numbers and types of occupations for Egyptian laborers who apply to the Egyptian Ministry of Manpower seeking employment in Jordan. According to this recruiting procedure agreed upon between the Jordanian and Egyptian labor ministries, around 31,000 Egyptian workers had submitted job applications at their Manpower Ministry since the beginning of the implementation of the procedure on 01 May 2007. These applications are posted on the MOL's website ([www.mol.gov.jo](http://www.mol.gov.jo)).

On the other hand, around 1,500 Egyptian laborers have entered the Kingdom since the first of June under the memorandum of March 2007.<sup>31</sup> The recruitment is focused on unskilled occupations that Jordanians may be reluctant to work in such as the agriculture, construction and restaurant sectors.

#### *New Regulation on Foreign Workers*

Foreign workers recruitment is now governed by a new regulation which went into force after its publication in the Official Gazette on 02 August 2007. The new regulations replaced the previous ones of 2006<sup>32</sup> and they are issued by the MOL in accordance with Article (4) of the by-Law no. 36 of 1997 and its amendments governing non-Jordanian workers' permit fees.

A ministry's recruitment committee is established in order to examine the applications of recruitment of foreign workers whether they are inside or outside Jordan (Article3). Employers willing to recruit or to bring a foreign worker must submit an application for this purpose to the MOL. The application contains several points including the

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<sup>30</sup> The Jordan Times Daily Newspaper 12.6.2007

<sup>31</sup> The Jordan Times 12.8.2007. Al-ghad newspaper 23.8.2007.

<sup>32</sup> Official Gazette, No 4785, 1.10.2006, p.3823.

name, the nationality of the foreign worker and the profession in which he is recruited for. The employer must also provide MOL with a work contract.

Prospectus foreign workers employers are required to provide a notary or a banking guarantee ranging from JD300 to JD 40,000 according to the number of workers at the enterprise and whether the recruited workers are required to obtain a visa to enter the Kingdom. The purpose of the guarantee is to protect the rights of workers due to existing violations committed by some sponsors and agents with regard to foreign workers' wages (Article 4).

Government departments, public universities, greater Amman municipalities and regional offices are exempted from the notary or banking guarantee requirement (Article 4).

Foreign workers at the QIZ and domestic workers are excluded from the scope of application of the new regulations. These sectors are governed by separate rules. The Recruitment of foreign workers is based on the needs of the work market and it takes into consideration the list of closed professions. The MOL decides the percentage of foreign work force in each of the economic sectors of the country, taking into consideration the policy of the gradual replacement of Jordanian work force instead of foreign work force. The work permit is not accorded to a foreigner who enters the country for purposes other than the purpose of work. The same is applicable to the foreigner who received his dues of social security (Article 10).

The new regulations ban agricultural workers working in other sectors until two years of the recruitment date and the permit work is not accorded nor reversed in case a deportation decision is issued to the foreign worker. The new regulation also stipulates that foreign workers at the Aqaba special economic zone may not switch to any other sector, within or outside the zone.

Under the regulations, the recruitment of Egyptians is carried out in accordance with the pertinent rules of the regulation applicable to nationalities to which the residency law is not applicable, in addition to the provisions of the memorandum that the MOL signed with its Egyptian counterpart in March 2007 to regulate the number of Egyptian Laborers entering the country. Article 11 of the Regulations details the stipulations of the memorandum. The Regulations stipulate that the employer is responsible for obtaining of the work permit for the foreign worker. Moreover, the

employer who cancels the work permits of an Egyptian worker before the expiration date will not receive approval for future recruitment.

## **VII. Rights and Working Conditions of Foreign Domestic Workers**

Domestic laborers of different nationalities, especially Filipinos, Indonesians and Sri Lankans, constitute a large share of expatriate workers in Jordan. The overwhelming majority of women who migrate to Jordan are engaged in domestic work. Nevertheless, available statistics of the MOL and those kept by the Residence and Border Department indicate a lack of accurate statistics about both the total number of domestic laborers and the number of different nationalities as well.

The estimated number of domestic workers in Jordan legally stands at 60,000 domestic workers, predominantly from Indonesia, Sri Lanka and the Philippines, with around 615 working illegally.<sup>33</sup> This number is increasing dramatically because a higher number of Jordanian families are willing to employ a foreign live-in maid.

Labor law does not cover female domestic workers because they are not considered employees and the household in which they work is not considered a work place and is still largely seen as a private domain beyond the reach of regulation and supervision by inspectors of the MOL. As such, the domestic workers are denied the status of "real workers entitled to labor protection."<sup>34</sup> They are particularly vulnerable, marginalized and subjected to exploitation and abuse by both employers and officials alike. (On the other side, the Social Security law no. 19 of 2001 excluded some categories from the personal scope of its application, including agricultural workers and household laborers.)

Domestic laborers' rights are violated in the same way as other foreign workers. Furthermore, they are subjected to particular kinds of infringements, such as forcing them to work in more than one house, involvement of some recruitment agencies in bringing domestic laborers without being licensed for such activity by the MOL and failure to obtain work and residence permits for the domestic workers, which in many cases leads to their deportation. Since domestic work is generally not regulated, the terms and conditions of work are unilaterally established by the employer. In fact,

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<sup>33</sup> <http://www.irinnews.org>, <http://www.black-iris.com>; [http://www.Jordan-embassy u.org](http://www.Jordan-embassy.u.org) 8.9.2007

<sup>34</sup> <http://www.migrationinformation.org> 8.9.2007

Jordan, as other Arab countries, has not been able to consider domestic work as labor that should be regulated and protected.

Frequently, domestic laborers are unable to pay the fines for exceeding the residence permit as they cannot be deported until they have paid the fines or if they are granted a Ministry of Interior exemption decision which takes a long period of time. Domestic workers are sometimes deported by order of the administrative governor on the claim by their employers that they are engaged in immoral practices or commit such crimes as theft.

Other forms of maltreatment of domestic workers include sexual harassment, rape, withholding of wages, prolongation of working hours, absence of freedom of movement even on weekends and beating.

The minimum monthly wage which became JD 110 in 2006 is far from the poverty line and it cannot provide a decent standard of living. It is nevertheless not applied to migrant workers in general and to domestic workers in particular.

Foreign domestic workers are employed through private employment agencies. Around 95 of the 102 agencies of recruitment of domestic workers are licensed by the MOL, yet several agencies registered at the Ministry of Industry and Trade are involved in bringing in domestic workers under the cover of their licenses as commercial services offices, which enable them to evade the provisions of the law. Sometimes female domestic workers are brought in by virtue of falsified passports stating that they are older than 20 years, while in fact they are 15 years of age, and even younger. They are obliged to pay considerable amounts of money to the agencies of recruitment before they leave their countries.<sup>35</sup> These compartments take advantage of the position of vulnerability of person and they violate the United Nations' convention against transnational organized crime and the additional Palermo Protocol to prevent, suppress and punish trafficking in persons, especially women and children which came into force in December 2003. The Protocol seeks to promote cooperation among States parties, which now number 111 to prevent such trafficking, paying particular attention to women and children and to protect and assist its victims, with full respect to human rights.

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<sup>35</sup> Alghad Arabic daily Newspaper, 23.7.2007; The National Center for Human Rights, Status Report of Human Rights, Jordan, 2006, p. 38.

Jordanian law prohibits trafficking in children and not in other persons. Furthermore, Jordan signed the Convention and in 2006 it ratified the Protocol, although the Jordanian Government should have ratified the agreement first to be followed by the protocol second.

The MOL is expected to issue by the end of September 2007 new instructions governing the recruitment of domestic workers. The new regulations are meant to improve the working and living conditions of the 60,000 legal domestic workers in the country. They impose a notary guarantee ranging between JD 1,000 – 2,000 on prospective employers of foreign domestic workers. The purpose of this notary guarantee is to protect the rights of foreign workers due to existing violations committed by some sponsors and agents in regards to domestic workers' wages. The new regulations will regulate this sector by imposing stiff penalties on violators and increasing the effectiveness of the Labour Ministry's control and supervisions.

Regulations governing recruitment agencies dealing with foreign workers will be amended as well.<sup>36</sup> The recruitment agency violating the rules for the first time will be suspended for a month, and, if another violation is reported within one year from the first, a decision of suspension for three months will be issued. In case the violation is repeated for the third time the license of the recruitment agency will be withdrawn. The new regulations will also raise the bank guarantee required from the recruiting agency from JD 50,000 to 60,000 and the agency must provide the MOL with a detailed report of its activities periodically and upon request.

Furthermore, a multi-language booklet issued by the MOL detailing the rights and duties of foreign workers prescribed by law will be handed to them upon their arrival to the Kingdom. The MOL will also establish a notary office at its headquarters, in addition to certifying a standardized contract to be issued by all recruitment agencies. It will also start putting the twenty four-hour telephone hotline number on work permits in case of complaints.<sup>37</sup>

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<sup>36</sup> For the present Regulations see the Official Gazette No 4761, 1.6.2006, p.2027

<sup>37</sup> The Jordan Times 6.7.2007 and Al Rai Arabic Daily Newspaper 5.7.2007

Since May 2006, moreover, a special directorate was established in the Ministry of Labor to provide protection for domestic workers and to supervise the actions of recruitment agencies<sup>38</sup>.

### **VIII. Foreign Labourers in the Qualified Industrial Zones (QIZs)**

The Qualified Industrial zones (QIZs) agreement with the US, signed in 1997, entitles goods produced in these industrial parks to duty-free and quota-free access to the American market as long they have a specified Jordanian-Israeli input. Currently there are ten QIZs in the country housing 50 factories, three of them owned by the public sector and the remaining are owned by the private sector. All together they employ around 36,000 foreign laborers and 18,000 Jordanians.<sup>39</sup>

Foreign workers in the QIZs are recruited through the Jordan Investment Board, established according to the investment laws of 2003 and the investment promotion law of 1995. The Board is a government body enjoying both financial and administrative independence. The employer has to submit an application to the Board. A delegate of the MOL decides whether or not to give the approval. The delegate takes into consideration different criteria included in the employer policy of gradual replacement of the Jordanian work force. The permit of work for non-Jordanian workers is issued following an approval of the Minister of Labour. The worker in the QIZ's is not allowed to be employed in another sector of the economy.

Furthermore, to ensure the compliance of the employer with the law, by-laws and regulations, the Regulations governing the employment of foreign workers at the QIZs<sup>40</sup> require of the prospective employer to provide a banking guarantee ranging between JD .30.00 to JD 75.000. The Regulation exempts the employers on the "golden list" from the bank guarantee and the work permit is not given unless the Embassy of the prospective worker certifies that the worker is employed through an authorized recruitment agency of his country.

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<sup>38</sup> Al-Ghad Daily Arabic Newspaper 1.6.2007.

<sup>39</sup> The foreign labourers numbered only 5,000 in the year 2001. Alghad Daily Arabic newspaper 23.8.2007 and Al-Rai Daily Arabic Newspaper, 18.9.2007.

<sup>40</sup> Official Gazette No 4761, 1June 2006, p. 2039.

In May 2006, a report by the US National Labour Committee (NLC) severely criticized violations of foreign workers rights in the QIZ. The report claimed, among other infringements, that tens of thousands of foreign laborers working in the zones had been stripped of their passports, trapped into involuntary servitude and forced to work without sleep. In the latest report at the end of 2006, the NLC noticed that there had been a "substantial improvement" since the publication of its first report but that problems still remained in some of the QIZs.<sup>41</sup>

In July 2007, the Labour Ministry started issuing ID cards to around 6,000 Asian workers employed in the QIZs whose work and residency permits had expired. The ID cards give workers a three-month period to renew their documents. During this period the card holders would not be pursued by labor inspection teams or the police force. The reason behind the expiry of work and residency permits is attributed to some plant owners who brought the workers into the Kingdom and who have gone out of business and left the country without paying their workers' wages. As a result, workers who are recruited by these companies failed to renew their residence and work permits. In some other cases, the plants do not complete the legal procedures for workers to obtain work and residence permits thus subjecting them to the danger of deportation. (The courts examined about eight lawsuits filed by the workers against their employers and a recent ruling by a court in Irbid banned some owners of the companies from leaving the country and ordered the selling of a factory's machinery to compensate its workers.<sup>42</sup>)

The MOL has completed issuing temporary ID cards to QIZ workers who were found in violation of recruitment and residency rules. The total number of IDs stood at 6,000 and will be examined in cooperation with the Interior Ministry according to the Labor Ministry's inspection director.<sup>43</sup>

The years 2006 and 2007 saw a number of strikes carried out by hundred of foreign workers in the QIZs. The workers' complaints include low and unfair wages and delays in their payments, lack of medical insurance, shortage in the labor inspectors, poor food and working living quality, and bad work environment. According to the

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<sup>41</sup> <http://www.nlcnet.org> 8.9.2007. The free trade agreement. (FTA) between the U.S. and Jordan. stipulates that labour rights in the QIZ's must be enforced otherwise the country could be subject to sanctions.

<sup>42</sup> The Jordan Times Daily Newspaper 26.7.2007

<sup>43</sup> The Jordan times 7.9.2007; The Jordan Times 4.10.2007.

labor law, workers who plan to initiate a strike have to inform their employers of their intention to carry out the strike 15 days earlier. Under the same law, workers who carry out illegal strikes must each be fined JD 50 for the first day of the strike and thereafter JD 5 per day.

As the notice requirement is not fulfilled in several cases, workers are frequently fined and they resume work after mediation with the MOL.<sup>44</sup> Workers participating in the strikes are sometimes deported after signing a paper in which they recognize that their deportation is voluntary and without constraint.<sup>45</sup>

The conditions of work at the QIZs are generally below acceptable standards. According to the National Center for Human Rights' report of 2006, workers in the QIZs are brought through recruitment agencies in sending countries which charge exorbitant amounts from those selected. These amounts are divided between the foreign recruitment agencies and the employers in Jordan after payment of travel expenses, resulting in a financial burden on the worker who works for several months to pay the amount in most cases.<sup>46</sup> The report adds that it is customary for the worker to be obligated to sign an initial work contract in the country of origin while he is obligated upon arrival to Jordan to sign a new contract with the employer where the monthly wage is much lesser. Passports of workers are withheld by employers, thus restricting the freedom of worker movement in violation of national and international law. In fact, withholding passports is illegal in Jordan according to Article 18 of the Temporary Passport Law no. 5 of 2003 and its amendments. Finally, sexual harassment of female migrant workers occurred and providing protection against sexual harassment to working women is primordial. This remedy can be done by introducing a legal text punishing perpetrators of such offences. In order to remedy the poor conditions of work at the QIZs, the MOL started inspection rounds in the second half of 2006, and shut down some plants violating laws and regulations. On the other side, the Ministry does exempt QIZ workers from the fines that accumulated for those remaining in the country after their work permits have expired.<sup>47</sup>

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<sup>44</sup> The Jordan times 20 and 22.8.2007.

<sup>45</sup> Al Rai.Daily Arabic newspaper 12.6.2007.

<sup>46</sup> The National Center for Human Rights, status report of human rights, Hashemite Kingdom of Jordan,2006,p.54.

<sup>47</sup> The Jordan Times 4.10.2007.



## VIII. Recommendations

The first step to improve the status of foreign workers in Jordan would be for Jordan to pass legislation giving domestic workers the status of "real workers," and to entitle them to the same labor protection as nationals. Jordanian labor law should be amended so that its provisions apply to domestic workers and workers in the agricultural sector.

More regulation of recruitment agencies or labor agents is also needed. The role of the labor inspectors of the Ministry in supervising these agencies should be activated to insure compliance and serious actions should be taken in case they violate the rules protecting domestic workers. Recruitment agencies not satisfying the minimum standards should face fines or have their licenses revoked. On the other hand, only the MOL registered offices should be licensed to bring in domestic laborers and commercial services offices not subject to the Ministry's laws should be barred from bringing in expatriate workers.

Employers should be accountable for violating contracts and fines or punishment should be set for employers who abuse domestic workers.

Moreover, the treatment of irregular migrants in the event of detention should be improved and mechanisms for judicial or administrative review of the lawfulness of detention should be established. Those detained have the right to inform their consular or embassy representatives of their detention.

Jordan should adhere to the ILO Conventions No. 97 of 1949 and No.143 of 1975 on expatriate workers and to the International Convention on the protection of the Rights of All Migrant workers and Members of their Families of 1990 which came into force in 2003 and which is largely seen as one of the seven UN core human rights treaties.

Since 21 July 2003 the U.N. Development Fund for Women (UNIFEM), working with the MOL, endorsed a unified "special working contract for Non-Jordanian domestic workers."<sup>48</sup> This contract guarantees several rights to migrant workers including minimum wage and medical insurance, designated day off a week, rest days

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<sup>48</sup> <http://www.migrationinformation.org>, 8.9.2007; <http://www.amanjordan.org/arabic>, 8/9/2007; Noeleen HeyZer, "Labor Migration and Trafficking: A Gender and Human Rights approach".

and repatriation when contracts expire. It prohibits the holding of their passports by employers and withholding their salaries by either the employer or the recruitment agencies. The contract requires that foreign workers be paid the same salaries as Jordanians performing domestic work. This standardized contract should be taken seriously.

These reforms, however, are not likely to take place in the near future. Jordan, as other Arab states, has been very reluctant to adopt human rights generally, let alone domestic workers' rights.