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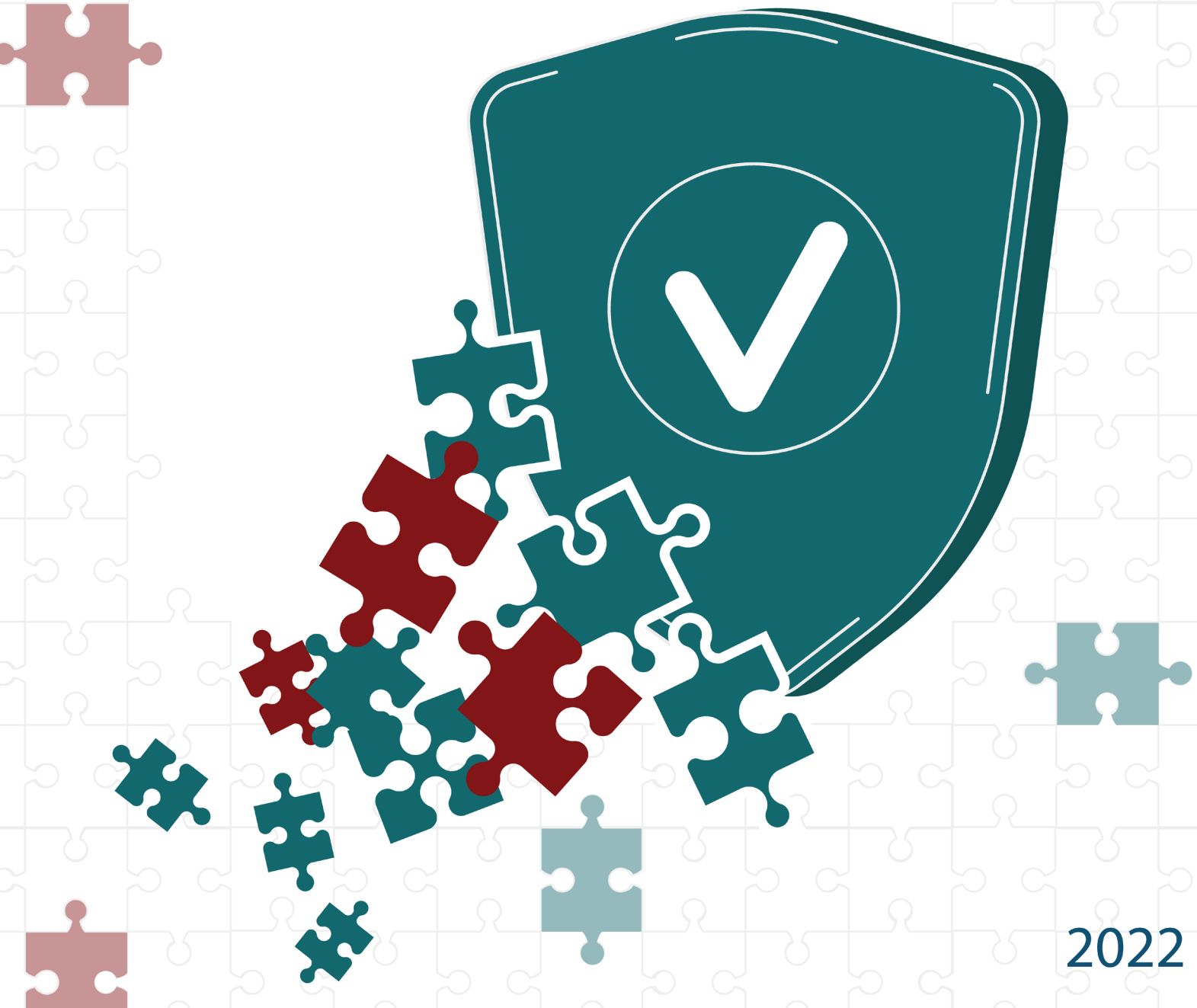
For legal aid and human rights

Fragmented Protection

Social Protection for Migrant Workers



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Introduction

For the migrant workers in Jordan who are contributing to economies and societies, access to social protection is a major challenge that cannot be overstated, particularly in light of the COVID-19 crisis. Indeed, their continuous exclusion from social protection, including healthcare, is not only a violation of human rights; it also has socio-economic repercussions on them and society. These unprotected migrant workers are more likely to be living in poverty and exposed to increased rates of violations.

Thus, access to social protection for all, including migrant workers, is among the priorities of the United Nations (UN) 2030 Agenda for Sustainable Development and is highlighted in the International Labour Organization (ILO) Centenary Declaration for the Future of Work as one of the cornerstones of a brighter future. In 2012, the ILO adopted the Social Protection Floors Recommendation, (No. 202), which reaffirms the universality of social protection based on social solidarity, non-discrimination, gender quality and responsiveness to special needs. It expressly recognizes that "social security is an investment in people that empowers them to adjust to changes in the economy and in the labour market, and social security systems act as automatic social and economic stabilizers, help stimulate aggregate demand in times of crisis and beyond and help support a transition to a more sustainable economy".

The Global Compact for Safe, Orderly and Regular Migration, adopted by the UN General Assembly in 2018, also recognizes the importance of protecting workers across borders and ensuring access to social protection rights and entitlements.

Notwithstanding the existence of a clear international legal framework governing the right to social security, this right does not translate into universal, effective access to healthcare and social security benefits for all migrant workers. On the contrary, there are numerous legal, administrative, and other obstacles that hinder migrants' access to social protection in Jordan and around the world.

Following the onset of the COVID-19 pandemic, the need to extend social protection to migrant workers, irrespective of their status, has been underlined across the world. The pandemic showed that besides the effects of the virus on migrants' health, it also has an impact on their socio-economic status, owing to the loss of jobs and closure of businesses, as well as on society, owing to higher levels of exposure and spread.

These risks are heightened by the fact that many of them work in the sectors hardest hit by the crisis, including frontline workers in the health and service sectors, or entail heightened health risks owing to their provision of essential goods and services to the general population, like those working in agriculture, construction and the Qualified Industrial Zones (QIZ).

Moreover, it was noted that despite migrant workers' contribution to the Kingdom's economy, they were mostly excluded from national social protection schemes that were supposed to lessen the impact of the crisis.

First Chapter: Social Protection

Definition of Social Protection

Social protection is defined as "the set of policies and programmes designed to reduce and prevent poverty and vulnerability throughout the life cycle. Social protection includes benefits for children and families, maternity, unemployment, employment injury, sickness, old age, disability, survivors, as well as health protection. Social protection systems address all these policy areas by a mix of contributory schemes (social insurance) and non-contributory tax-financed benefits, including social assistance."[1]

Social protection systems are an important dimension in the reduction of poverty. They serve to protect the most vulnerable from falling further into poverty and ensure access to health services and education.

Social protection systems act as economic stabilizers, thereby limiting the contraction of aggregate demand and in turn curtailing the potential depth of a recession. They also assist in building social cohesion, which can reduce the likelihood of social unrest. In addition, if they are well designed, social protection systems may contribute to the achievement of several human rights, such as the rights to adequate standard of living, health, education, and social security.

Social protection systems are generally structured around three main objectives:

a) facilitating recovery from crises that have led people to become poor,
b) contributing to the ability of chronically poor people to emerge from poverty, and to challenge oppressive socio-economic relationships,
c) supporting the less active poor (such as the elderly, persons with disabilities and children) to help ensure poverty is not inherited by the next generation.

International Framework for Social Protection

The right to social security has been strongly affirmed in international law. The human rights dimensions of social security were clearly present in the **Declaration of Philadelphia of 1944** which called for the "extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care".

The universal recognition of social security as a right belonging to all persons was subsequently embodied by the inclusion of the right to social security in the **Universal Declaration of Human Rights (UDHR), 1948**, as article 22 stipulated that "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic,

1 Report by the independent expert on the question of human rights and extreme poverty**, Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms,** 64th Session of the UN
https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/452/76/PDF/N0945276.pdf?OpenElement

social and cultural rights indispensable for his dignity and the free development of his personality."

Meanwhile, article 25 stated that:

A. "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.
B. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."[2]

The right was later enshrined in the **International Covenant on Economic, Social and Cultural Rights (ICESCR),** as it established that everyone has the right to "social security, including social insurance" (Art. 9), to an "adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions." Each State party to the Covenant is required to "take steps to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including in particular the adoption of legislative measures." [3]

Indeed, the Covenant requires States parties to ensure enjoyment of the rights established in the Covenant without discrimination of any kind as to, among other things, national or social origin (Art. 2(2)). Thus, people ought to have access to various schemes of social protection that include:

a. Contributory or insurance-based schemes such as social insurance, which is expressly mentioned in article 9. These generally involve compulsory contributions from beneficiaries, employers and, sometimes, the State, in conjunction with the payment of benefits and administrative expenses from a common fund,

b. Non-contributory schemes such as universal schemes (which provide the relevant benefit in principle to everyone who experiences a particular risk or contingency) or targeted social assistance schemes (where benefits are received by those in a situation of need). In almost all States parties, non-contributory schemes will be required since it is unlikely that every person can be adequately covered through an insurance-based system.

Other forms of social security may also be p ut in place, including:

a. Private sector schemes.
b. Individual, Collective, or participatory schemes.

The right to social security is also enshrined in several other UN Covenants, which affirmed the importance of the right to specific groups, including the Convention on the Elimination of All Forms of Discrimination against Women (1979)[4], the Convention on the Rights of the Child (1989)[5], the International Convention on the Elimination of All Forms of Discrimination against Women (1989)[6],

2 Universal Declaration of Human Rights
https://www.un.org/en/about-us/universal-declaration-of-human-rights

3 UN International Covenant on Economic, Social and Cultural Rights
https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

4 Articles 11 (1,C), (2,B) & 14 (2)
5 Articles 26, 27 (1), (2) and (3)
6 Article 5 (c)

on Racial Discrimination (1965)[7], the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990),[8] and the Convention on the Rights of Persons with Disabilities (2006).

The **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW),** adopted by the United Nations General Assembly in 1990, is the most comprehensive UN treaty on migrant workers. The Convention establishes minimum standards that are applicable to migrant workers and members of their families, irrespective of their migratory status.

The Convention states that: "with respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties" (Art. 27).

The Convention also states that: "migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of protection against dismissal; unemployment benefits; and access to public work schemes and alternative employment" (Art. 54).

While the Universal Declaration of Human Rights is undisputedly an important statement of basic human rights, the ICESCR and other specific conventions adopted by the United Nations acquire a special status as they are binding treaties that entail obligations upon ratification. Thus, the ICESCR requires State parties to ensure enjoyment of the rights established in the Covenant without discrimination of any kind as to, among other things, national or social origin. However, it acknowledges constraints on available resources and allows developing countries to determine to what extent they guarantee the rights recognized therein (including the right to social security) to non-nationals.

However, while states are allowed to progressively realise the rights within the Covenant, they are prohibited from taking any deliberate retrogressive measures, and they are prohibited from discriminating against any vulnerable group, including migrant workers.

The **Committee on Economic, Social and Cultural Rights** confirmed that in its General Comment No. 19 on the right to social security, where it stated, "non-nationals and other disadvantaged groups, such as minorities, refugees, asylum seekers, internally displaced persons, and returnees, should also be given special attention by States as they face additional hurdles in exercising their right to social security" (CESCR 2008, para. 31).[9]

The comment also noted that where "migrant workers have contributed to a social security scheme, they should be able to benefit from that contribution or retrieve their contributions if they leave the country" (CESCR 2008, para. 36). As for non-contributory schemes, "non-nationals should be able to access income support, affordable access to health care and family support" (CESCR 2008, para. 37).[10]

7 Articles 27 & 54

8 Article 28

9 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19, available at: https://www.refworld.org/docid/47b17b5b39c.html

10 Ibid

ILO standards on Social Protection

At the heart of the ILO's mandate is "the extension of social security measures to provide basic income to all in need of such protection and comprehensive medical care" (Declaration of Philadelphia, Art. 3(f)).

The right to social security was thus included in several conventions and recommendations that established its minimum standards. In principle, the conventions are international treaties that States have to ratify and then implement, while recommendations provide guidance and technical explanations to relevant treaties.

Throughout its history, the ILO adopted 208 conventions related to social security, including Convention 102 which sets the minimum standards for the right. Currently, there are 8 key main ILO conventions and 9 recommendations on social protection:

- Income Security Recommendation, 1944 (No. 67)
- Medical Care Recommendation, 1944 (No. 69)
- Social Security (Minimum Standards) Convention, 1952- *ratified by Jordan*
- Equality of Treatment (Social Security) Convention, 1962 - *ratified by Jordan*
- Employment Injury Benefits Convention, 1964 (No. 121) and its recommendation
- Invalidity, Old-Age and Survivors' Benefits Convention, 1967
- Medical Care and Sickness Benefits Convention, 1969
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) and recommendation 176
- Maternity Protection Convention, 2000 (No. 183) and recommendation 191
- Social Protection Floors Recommendation, 2012

Several other standards also highlighted the importance of the right and promoted non-discrimination against and equality of treatment of a specific population group, including migrant workers. These instruments include: the Domestic Workers Convention, 2011 (No. 189) Art. 14; Private Employment Agencies Convention, 1997 (No. 181), Art. 5; Safety and Health in Agriculture Convention, 2001 (No. 184) Art. 17; and Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), Art. 16-21.

Amongst these instruments though, the Social Security (Minimum Standards) Convention, 1952 (No. 102) remains the flagship ILO instrument on this right and can serve as a benchmark and reference for the gradual development of comprehensive social security systems at the national level. It establishes minimum standards for all nine branches of social security with respect to the coverage of the population, level of benefits to be provided by social security schemes for each risk, conditions for entitlement to those benefits, and related statistical requirements for demonstrating compliance.

It also sets out the core principles to be observed, irrespective of the type of social security system, including: the general responsibility of the state for the due provision of benefits and for proper administration of the institutions and services concerned in securing the provision of benefits; the participation of protected persons in the management of social security schemes; the collective financing of social security schemes; the adjustment of pensions in payment; and the right to appeal refusal of a benefit and lodge a complaint as to its quality or quantity.

The Convention establishes the principle of equality of treatment between national and non-national residents of countries of employment, which is applicable to all nine branches of social security (Art. 68(1)), though it allows for two exceptions in the application of this principle.

As for the Social Protection Floors Recommendation, 2012 (No. 202), which was adopted in June 2012 by the International Labour Conference, it is considered an important tool albeit nonbinding tool on the promotion of social protection within comprehensive social security systems for all in need. It also calls on member states to extend social protection and progressively ensure higher levels of social security to as many people as possible.

According to the recommendation, social protection floors should comprise at least the following basic social security guarantees:

a) "Access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability, and quality,
b) Basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services,
c) Basic income security, at least at a nationally defined minimum level, for persons of active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability, and
d) Basic income security, at least at a nationally defined minimum level, for older persons."[11]

The recommendation states that these guarantees should be provided at least to migrant workers with residence status and to children, irrespective of their status and that of their parents or guardians. The mention of "all" residents emphasizes that all types or categories of residents and residence statuses as defined under the national law, whether permanent or temporary, should be included.

Social protection floor guarantees can be put in place through a variety of means, including contributory and non-contributory social schemes or transfers. By implementing national SPFs, countries of origin, transit and destination can ensure that emigrant and immigrant workers and their families have, at least, access to essential healthcare and basic income security throughout their life cycle, including for returning migrants and dependents living in a different country from the migrant breadwinner.

11 ILO Social Protection Floors Recommendation, 2012 (No. 202)
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3065524

Second Chapter: Social Protection in Jordan

There are numerous entities responsible for the implementation of social protection programs in Jordan. These responsibilities are divided between seven ministries and two independent committees, in addition to civil society organisation, international, and non-governmental organisation.[12] The tools provided by these entities consist mainly of the following programs:

- Contributions-based programs (social security).
- Non-contribution-based programs (social safety nets or social assistance).
- Social sector policies (services, infrastructure, education, and health).
- Labour-related policies.

Contributions-based programs are represented by the social security provided by the Social Security Corporation, the Civil Retirement Fund, and Military Retirement Fund. Meanwhile, non-contributory programs target specific population groups. For example, there are programs that target the elderly, persons with disabilities (categorical targeting), persons residing in specific areas (geographical targeting), and/or poor persons (direct or indirect targeting of poverty). These programs are provided by two main entities: the National Aid Fund and the Zakat Fund, and **they only target Jordanians.**

In terms of the legal framework, it should be noted that Jordan has not ratified four key instruments on social protection, namely: the Employment Injury Benefits Convention, 1964 (No. 121); the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No.128); the Medical Care and Sickness Benefits Convention, 1969 (No.130); and the Maternity Protection Convention, 2000 (No. 183). It also has not ratified Convention No.87 on the right to organise, which is intrinsically linked to social protection floors.

National Legal Framework for Social Protection

Labour Law No. 8 of 1996

In the second article of The Labour Law, it is stipulated that a worker is a "male or female, who performs a job against wages and is a subordinate to the employer and at his service including juveniles and those under probation or rehabilitation."

The Jordanian **Labour Law applies to all workers present** on the territory of the Kingdom, **without discrimination.** Article (12) of the law regulates the conditions of employment of non-Jordanian workers, while article (14) states that in case of work injury that results in a partial disability that

12 The Landscape of Social Protection in Jordan
https://erf.org.eg/app/uploads/2021/12/1641987704_433_784767_session1_marykawar_nimeh_kool.pdf

prevents the worker from performing their current job, the employer shall employ the worker in another job suitable for their condition with a similar wage, provided that the financial rights for the period preceding their injury are calculated on the basis of their last wage before the injury.

Article (32) of the Law states that workers who are not subject to the provisions of the Social Security Law and whose service is terminated for any reason is entitled **to an end-of-service compensation** at the rate of one month's wage for each year of their employment period. Article (34) also indicated that in the event of the death of the worker, all their labour rights established under the provisions of the law shall be provided to their legal heirs. While article (50) obliges employers who were forced to temporarily suspend work due to a reason that is not attributable to them to pay the worker for a period not exceeding the first ten days since work was ceased, and half their wage for the period exceeding that, provided that the full period where work was suspended does not exceed sixty days per year.

Article (78) stipulates that it is the duty of the employer to provide the necessary occupational and safety health tools to protect workers from the risks and illnesses that may result from their work, including personal protective equipment and a first aid kit, provided that workers may not be charged any expenses for these tools.

Meanwhile, article (79) states that the Minister shall, after consulting the competent official authorities, specify instructions that each institution must undertake to protect its workers to guarantee a safe working environment free from pollution or potential harm to workers based on the approved international standards.

Finally, both articles (86) and (87) stated that the law shall be applied on workers for whom the provisions of the applicable Social Security Law do not apply, provided that it is the responsibility of the employer to pay the compensation for workers who suffer from an occupational disease or injury that was proven in a certified medical report.

Social Security Law No. 1 of 2014[13]

The first Social Security Law in Jordan was issued in 1978, (Interim Law No. 30 of 1978). It was later followed with Law No. 19 of 2001 which was subsequently amended in 2009, and 2010, before the current law was finally issued in 2014 as Law No. 1 of 2014 and came into force on 1/3/2014.

Social security is defined as "a social protection system, aimed at socially and economically protecting people through the law, which defines both its benefits and sources of finances. The various programs covered under social security shall be mainly financed through contributions borne by both the insured employers and the employers."

Article (4) of the law stipulated that categories that could be covered under the umbrella of the SSC, which includes anyone at or above sixteen years of age, without any discrimination amongst those included based on nationality, and regardless of the duration, form of contract, or nature of wage. This is provided that the wage based on which contributions are calculated for is not less than the minimum wage pursuant to the valid Labor Law. Currently, these categories include:

13 For more information, please see https://www.ssif.gov.jo/UploadFiles/SSCLawEnglish.pdf

1. All laborers subject to the provisions of the valid-in-force labor law.
2. Workers who are not subject to the retirement pension under the provisions of civil or military retirement laws.
3. Jordanian persons employed by regional and international missions, foreign and Arab political or military missions operating inside the Kingdom, attachés, and their affiliated educational and cultural centers.
4. Self-employed individuals, employers, and joint partners working in their own firms subject to a resolution to be issued by the Council of Ministers upon recommendation by the Board covering said categories by the provisions of this Law not later than January 1, 2015. This is provided that the bylaws issued pursuant to this Law determine their coverage-related provisions, including working hours, leaves, break hours, inspection, and wages subject to the provisions of this Law.

The article affirmed that workers whose employment relationship with their employers is regular are subject to the law. According to the law, the relationship shall be deemed regular in the following cases:

a. A day laborer working sixteen days or more in any given month.
b. An hour, piece, shipment laborer or the like who works sixteen days or more in any given month, regardless of the number of working hours, pieces, or shipments per day.
c. A laborer who is paid monthly, regardless of the number of working days per month, except for the first month of work to which the principle of sixteen or more working days per month shall apply.

Article (4) also indicated that its provisions may be applied to domestic workers and the like, by virtue of a resolution of 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.

In terms of insurances covered by the law, article (3) numerated them as:

1. Work injury insurance
2. Old-age, Disability and Death insurances
3. Maternity insurance
4. Unemployment insurance
5. Health insurance

As for the categories not covered by the law, they include:

1. Individuals paying their retirement contributions pursuant to the civil or military retirement laws.
2. Non-Jordanians employed by regional, international, foreign and Arab political or military missions operating inside the Kingdom, as well as attachés and their affiliated educational and cultural centers.
3. Laborers whose employment relationship with their employers is irregular.

Meanwhile, article (7) allows **specific categories of Jordanians to sign up for voluntary old age, disability, and death insurances** for the purposes of receiving early retirement, old-age, mandatory

old-age, total permanent non-work-related disability, partial permanent non-work-related disability or natural death pensions**.** These categories include:

1. Jordanian natural persons residing in the Kingdom or aboard, provided that they have not completed the age of (sixty) for males or the age of (fifty-five) for females upon their first contribution to this insurance.
1. A Jordanian insured who does not fall within the scope of this Law.
2. Jordanian legal possessors of firms who are subject to the provisions of any mandatory retirement insurance scheme under applicable legislations.

It should be noted, however, that the Social Security Corporation (SSC) is considering expanding the categories included in the voluntary program to include children born to Jordanian mothers and people from the Gaza Strip.

National Social Protection Strategy 2019-2025

On 28 May 2019, the Jordanian government launched the "National Strategy for Social Protection 2019-2025 (NSSP)". The strategy's vision is to ensure that "all Jordanians enjoy a dignified living, decent work opportunities and empowering social services". The strategy aims to achieve this vision by expanding the protection framework to reach all poor or vulnerable groups in society to ensure they have access to basic services such as health, education, transportation, and housing.

The strategy was based on the Sustainable Development Goals (SDGs), especially the first goal on eradicating poverty in all its forms everywhere, the second goal on eradicating hunger and providing food security, and the third goal on promoting inclusive, sustainable economic growth, full and productive employment, and decent work for all.

The strategy states that the government shall work on achieving these pillars for its citizens according to available resources by targeting the poor and vulnerable first, and then expanding the coverage to all segments of society.

The strategy is organized around three pillars – collectively directed at a decent life for all Jordanians – through the provision of a comprehensive, transparent, and equitable social protection system. The first pillar focuses on opportunities for families to be economically self-sufficient through the labor market. The second pillar focuses on empowerment of the population through education, health care and social services that support those with special needs to remain integrated within their families and communities. The third pillar focuses on targeted social assistance that allows the poor to maintain a basic level of consumption with dignity.

Migrant workers are mentioned under the first pillar of the strategy, which notes that "**the increase in informality has coincided with the continued loose policy supporting migration of less-educated workers from low-income countries (the share of migrant workers in employment increased from 16% in 2004 to 36% in 2015.) As migrant workers are nearly always in Jordan without their families, they are often able to work long hours and live at their workplace, in contrast to Jordanian workers. In addition, the existing work permit system makes this group especially vulnerable to violations of Labor Law. More generally, the presence of large numbers of migrant workers puts downward pressure on wages and job quality."**

Meanwhile, the second pillar on social services aims at the **provision of universal, high-quality,**

basic services including education, health care, and services to poor and vulnerable Jordanians. Thus, the government would seek to expand coverage of the poorest Jordanians, including those who are able to work through a transparent mechanism that provides assistance through a range of programs that covers their basic needs.

Opportunities under the pillar state that the Ministry of Labour shall verify that employers are compliant with the Labor Law and other relevant regulations, including inclusion under the SSC. The MoL should also revise existing regulations to ensure **working conditions in all sectors are appropriate for Jordanian workers** and present **alternative work permit mechanisms and procedures that allow non-Jordanians to obtain their own work permits** directly from the Ministry of Labor. This holds non-Jordanians directly responsible for their own residency and work permit status so that **Jordanians are not competing with more vulnerable workers in the labor market.**

While the strategy itself is a step in the right direction, the procedures highlighted above are in violation of the current law, which clearly state that it is the responsibility of the employer to issue the work permit for non-Jordanian workers under article 12 of the Labour Law.

It should be noted that the **strategy excluded all non-Jordanians from under its provisions**. They were excluded from the **second pillar, entitled "Dignity", which includes social assistance programs** provided by the National Aid Fund, the Zakat Fund, and others. Whereas the **third pillar on social services,** and which includes early childhood education and the government health system, **is for Jordanians only.**

Chapter Three: Social Protection during the COVID-19 Pandemic

The Jordan National Defence Law (NDL) No. 13 of 1992 came into force as of 17 March 2020 following a royal decree issued upon the recommendation of the Council of Ministers. **The NDL entrusts the Prime Minister with the capacity to take all necessary measures to ensure public safety and to defend the Kingdom in cases of emergency due to war, disturbances, armed internal strife, public disasters, or the spread of a pest or epidemic.**[14]

Article (11) of the NDL stipulates that:

"If any contract or obligation cannot be performed due to the enforcement of this Law, or any order, assignment or instructions issued thereunder, or because of compliance with these provisions, the person associated with this contract shall not be deemed to be in breach of its terms. Instead, the contract shall be suspended throughout the period that its implementation is impossible."

Based on NDL, the Council of Ministers issued several orders, including: the imposing of a national lockdown and suspension of the works and closure of all ministries and official/public authorities (Defense Orders 1 & 2); the suspension of the private sector (excluding the health sector and other vital sectors as determined and recommended by the Minister of Industry, Trade and Supply); and the adoption of the decisions of the Ministry of Labour regarding employee matters (Lockdown Decision). These orders also included the launch of the "Himmat Watan" Fund to unify efforts related to the spread of COVID-19 (Defense Order No. 4), the regulation of education in schools, universities, vocational training centres, and students' assessment mechanisms (Defense Order No. 7), as well as punishments for those who conceal their infection from the competent authorities or obstruct the work of investigation teams and do not comply with the instructions as stated in (Defense Order No. 8), among others.

As the effects of the pandemic became apparent, numerous structural economic and social challenges that the Jordanian economy previously suffered from emerged and rose to the forefront. Indeed, issues related to daily and informal workers became a priority as many struggled to secure their livelihoods due to their dependance on a daily income, the lack of access to health insurance, and lack of coverage under the SSC. Prior to the pandemic, the government was prompted to address this challenge by adding a comprehensive chapter to the National Social Protection Strategy on responding to shocks and crises through digital solutions. According to the strategy, these solutions would improve the efficiency of social services and their ability to respond in crises. **In terms of the pandemic, the government launched three social protection programs dedicated to these vulnerable groups through the National Aid Fund, namely Takaful 1, Takaful 2, and Takaful 3**, which were accompanied with the launch of an electronic registration platform for them. These programs also relied on electronic wallets to deliver the payments, where the beneficiaries were selected through the linkage that was created between the National Aid Fund's Management Information System and the Unified National Registry, and which includes up-to-date comprehensive data of more than half of Jordanian households that registered to these programs. To maximise reach out to the most affected families for workers in the informal economy, the government also established

14 Issued in the Official Gazette No. 3815 of 25/03/1992 on page 586

an emergency fund at the Central Bank to enable donations from individuals and the private sector. The fund was able to accumulate 114 million JODs ($160 million).

Despite previous efforts, rethinking social protection in Jordan is crucial, as the pandemic highlighted the urgent need for adaptive, inclusive, and sustainable social protection systems. Otherwise, the current systems would become outdated, and the government would be unable to bear their costs. The government must also rethink ways to improve its social contract and provide access to social protection for all in a fair, transparent, and sustainable manner.

Therefore, this chapter will look at the defense orders and their impact on the Jordanian labour market.

Defense Orders

First: Defense Order No. (1) of 2020:[15]

On 19 March the Prime Minister issued Defense Order No. 1 of 2020, which suspends some of the provisions of the Social Security Law and replaces them with the order. The order gave authority to the Social Security Corporation (SSC) to allow enterprises to suspend old age contribution, provided for in paragraph (2) of paragraph (a) of Article (3) of the Social Security Law. The suspension was for 3 months starting 1 March 2020, and maintained coverage for maternity, unemployment, death, and occupational health, which covered all workers subject to the provisions of the Labour Law in the private sector, but excluded workers in the public sector, the Greater Amman Municipality, municipalities, and government-owned companies. However, if the establishment wished to continue to include its workers under the old-age insurance but was unable to pay the contributions due for that period, then they can pay the social security contributions in instalments until end of 2023 without any interest or penalties.

The order also allowed workers who were suspended from the old age fund to voluntarily enroll, provided that they pay the SSC 5.16% of their wages that are subject to deduction. Moreover, the order suspended the provisions of paragraph (a) of Article (94) of the Social Security Law No. (1) of 2014 and its amendments and postponed the payments that are stipulated upon in Chapter V of the Regulation on Coverage under the SSC Insurance Programs No. (14) of 2015 and its amendments.

The order also allowed the SSC to utilise 50 per cent of the maternity fund income of 2020 to provide in-kind support to the needy (such as the elderly and daily compensated workers). In addition, the government has formed a social protection team headed by Minister of Social Development and with a membership of the National Aid Fund (NAF), the Social Security Corporation, and national civil society organizations to protect the most vulnerable Jordanian households through emergency cash and relief aid.

The issuance of the first defense order was followed by the second, which prohibited the movement of people starting from the morning of 21/03/2020 and closed off all economic sectors except those considered essential.

The fifth defense order suspended all court dates and appointments for lawsuits, in addition to the indefinite postponement of all prosecutions, which came in force as of 18/03/2020. Therefore, the order affected the periods and timeframes set by the Labour Law, and any legislations issued based on it. These periods include those affecting the status of limitation, dropping of cases, unheard

15 Issued in the Official Gazette No. 5626 dated 19/03/2020 on page 1918

testimonies, or any litigation period or procedures in the Wage Court, reconciliation council, and others.[16]

Second: Defense Order No. (6) of 2020:[17]

The announced lockdown that affected the kingdom starting from 18/03/2020 provoked a wave of chaos and confusion regarding the wages of workers in the private sector, especially in terms of its payment. Initially, experts suspected that the government would resort to apply Article (50) of the Labour Law, which states:

> "If the employer was compelled to dismiss the employee temporarily for a reason that is not attributed to him or beyond his control, then the employee shall be entitled to the full wage for a period that does not exceed the first ten days from being dismissed from work during the year, and the employee shall be paid half of his/her wage for the period exceeding that so that the total of the paid temporary dismissal shall not exceed sixty days in the year."

Instead, the Prime Minister issued Defense Order No. (6) on 08/04/2020, which was the first of its kind on the protection of workers' wages and regulating the relationship between them and their employers. However, the order caused uncertainty in the labor market due to the legal terms used in it and the complexity of its text, which was not so easy to understand and caused great difficulty for workers.

Defense Order No. (6) regulated the relationship between the worker and the employer as follows:

First: In terms of employers' salaries for the period of 18 March to 31 March 2020: The establishment must pay full salaries for that period. If an employee had worked additional hours, the employee shall be entitled to overtime payment, which shall be calculated as overtime on a normal workday, as opposed to an official holiday. Employers must also pay any unpaid salaries for March within one week as of 9 April 2020.

Second: As of April 1st, 2020, some companies would be allowed to work out of the company's premises in whole or in part, upon obtaining the collective approval of the Minister of Industry, Trade & Supply, the Minister of Labour, the Minister of Health, and the relevant Minister. The order explained that the Minister of Industry, Trade & Supply, along with the Minister of Labour, and the Minister of Health, shall determine the basis, procedures, and conditions for obtaining approvals according to instructions issued for this purpose.

However, if a company operates without a permit, the establishment will be closed for a period of sixty days. It also stated that remote working is allowed based on the Flexible Work Bylaw No.22 for 2017. The order relaxed some procedures within the bylaw as stipulated in articles 3, 5, 8, 10, and 12.

16 Issued in the Official Gazette No. 5629 dated 31/03/2020 on page 1924
17 Issued in the Official Gazette No. 5631 of 09/04/2020 on page 1981

In terms of wages for the period starting from April 1st, the order divided the workers as follows:

1. Employees working on premises are entitled to their full salaries, however, the employer may agree with the employee to a maximum of 30% salary reduction, provided that such reductions are also applied to the salaries of senior management.
2. Employees working remotely are divided into two categories:
    A. Employers working full time remotely are entitled to their full salaries, as well as any overtime for working extra hours whether on a daily or weekly basis. This is calculated as overtime on a normal workday at 125%, as opposed to an official holiday.
3. Employees working part-time remotely are entitled to the higher of either a payment for actual hours worked, provided that the hourly rate is not less than the minimum hourly rate and a minimum of 50% of the employee's salary, provided it is not less than the minimum wage.
4. If an institution or an establishment is granted a permit to partially operate, it is entitled to apply to the Minister of Labour requesting permission to pay a minimum of 50% of the regular salary for nonworking employees. This is provided it is not less than the minimum wage and subject to certain checks and balances set out in instructions to be issued by the Minister of Labour.
5. The institution or establishment that was not allowed to resume working is entitled to apply to the Minister of Labour requesting permission to pay a minimum of 50% of the regular salary for non-working employees. This is provided it is not less than the minimum wage and subject to certain checks and balances set out in instructions to be issued by the Minister of Labour.
6. An employer who is unable to pay salaries may submit a request to the committee comprised of the Minister of Industry, Trade & Supply and The Minister of Labour, requesting that they completely suspend all activities on temporary basis, enclosing a list including the names of all the employees, their respective salaries, the nature of their contracts, the terms thereof, and the applicable working hours. Consequently:
    a. The employer may not perform any work or undertake any activity during the suspension period
    b. The contractual relationship between the employer and the employee continues but the employer will not be under an obligation to pay the employee's salaries during the suspension period
    c. The suspension period shall not be considered part of the employment contract duration
    d. Except for salary payment, all the employer's financial and contractual obligations remain valid during the suspension period
    e. Private sector employers shall not benefit from any Economic Protection Programs for the private sector as of the date of suspension
    f. Pursuant to a decision by the committee mentioned in the first point above, a no disposal order will be placed on all movable and immovable assets of the establishment for the

duration of the suspension period.

7. Jordanian Daily Workers who were not registered under SSC: The government is aiming to secure basic life essentials for Jordanian day labourers, who are not included in the social security system, provided that they subscribe to social security in accordance with a mechanism to be announced in due course.

The order prohibited employers from forcing an employee to resign, and may not terminate an employee's services or dismiss an employee, except in the following cases as stipulated in paragraphs (c) or (d) of article 21 and paragraphs (b, c, d, e) of article 28 in the Labour Law: if the employee is deceased, or is unable to work due to illness or disability as documented in a medical report issued by a valid medical reference; if the employee has reached the retirement age specified in the Social Security Law; if the employee impersonated another person's identity or presented false certificates or documentation with the intent of gaining self-benefit or harming others; if the employee is convicted pursuant to a final court judgement of a felony or misdemeanour that violates honour and public morals; if, while working, the employee is found in a state of drunkenness or under the influence of alcohol or other substances and committed an act that contravenes with public order and morals in the workplace; if the employee physically assaults or disparages the employer, the relevant line manager, a superior, or any other employee or person, during the work or because of it; if the employee was absent for 20 interrupted days or ten continuous days without a valid reason, subject to following the procedures to be issued in a decision by the Minister of Labour.

It is noted that the defense order contained the term "worker", which is understood to include all workers regardless of their nationality, except in the article related to daily workers.

However, the defense order gave the Jordanian workers the exclusive right to file a complaint with the Ministry of Labour if the employer arbitrarily terminated their services contrary to the provisions of Article (28) of the Labour Law. If the Ministry of Labour confirmed that the worker was indeed arbitrarily dismissed, the employer must allow the worker to return to work by 16 April 2020 at the latest. Any undertaking, agreement, or document in which the employee agreed to forego any such rights or undermine the Defense Order No. 6 stipulating labour rights in Jordan employee's rights as of 18 March 2020 is considered null and void, and the employer must take the necessary measures to reverse any actions taken pursuant to such documents by 16 April 2020 at the latest.

As for the non-Jordanian worker, the provisions of the Labour Law No. 8 of 1996 on arbitrary dismissal were applied to them without interference from the Ministry of Labour. In action, it meant that migrant and refugee workers were denied resorting to the Ministry of Labour if they were arbitrarily dismissed or have their services terminated, which is a further discrimination based on the workers' nationalities.

Moreover, article (23) of the Labour Law was also suspended by the order, which meant that employers were not allowed to terminate the employment of workers with indefinite contracts.[18]

18 [5] if either parties wanted to terminate the contract, they must notify the other side in writing while the contract remains valid and before one month. The contractual relationship would continue throughout the notice period. If the notice was submitted by the employer, they can allow the workers not to work in the notice period, and the worker should be paid for the notice period. If the notice was submitted by the worker, s/he would not be paid of they left work within the notice period and the employer shall be compensated as well.

Finally, the order stated that if any employer violated the requirements to obtain permission to operate shall be penalized by closing the establishment for 60 days. Violating any other provision of the Defense Order and communications issued by the Prime Minister or the mandated Ministers shall be punished with imprisonment for a period of up to three years and a fine in the amount of 3,000 Jordanian Dinars. Employees shall have the right to file a claim pursuant to the Labour Law No.8 for 1996.

Fourth: Notice No. (7) issued based on Defense Order No. (6) of 2020 [19]

On May 30, 2020, the government issued Notice Number (7) based on paragraph (a) of article 10 in Defence Order 6. The notice allowed for the wages of workers in the private sector to be deducted for the months of May and June. According to the new instructions, employers in the sectors most affected by the pandemic can agree with their workers to reduce their monthly wage by 30% for those who have been working either fully or partially during the months of May and June.

As for workers who have not been assigned any work or were not required to work, their wages can be reduced by 50%. Finally, wages for workers employed in the hardest hit sectors could be reduced by up to 60%, conditioned that the wage after the deduction will not be less than 150 JOD. The amendment also allowed employers to reduce the balance of annual leave for the year 2020 by up to 50% for workers not assigned any work, whether in their place of work or remotely, who did not work for 30 consecutive days in the period between the activation of the Defence Law until the date of the issuance of Notice (7).

These reductions can occur within the following conditions:

- The reduction should be agreed with the worker without pressure, coercion, or threat.
- The reduction should include the wages of senior management.
- The establishment should be employed in the most affected sectors as determined by the list issued by the Prime Minister upon the recommendations of the Minister of Labour and the Minister of Industry, Trade and Supply, and that list shall be subject to periodic review.
- The percentage of reduction should not exceed 30% of the wage.

The wage after the reduction shall not be less than the minimum wage.However, it was noticeable that many employers reduced the wages of their workers without taking their consent, and that senior management was not included in these reductions. However, workers left without any choice but to accept these decisions or risk the termination of their services.

The notice also stipulated that part time workers, whether those working in the workplace or remotely, shall be entitled to their wages in accordance with the number of their working hours, or paid 50% of their monthly wage, whichever is more.

However, the notice did not specify the mechanism in which these part time workers shall be done, and whether it ought to be decided in agreement with the workers or employer's wishes. Subsequently, many employers assigned many workers to work part time to reduce their wages.

In terms of the monthly wages for workers not assigned to work, it was stipulated that the employer

19 Issued in the Official Gazette No. 5645 dated 03/06/2020 on page 2237

may reduce their wage without the need of a consent from the worker or the Ministry of Labour, if it abides with the following conditions:

- The reduction rate shall not exceed (60%) of the wage for workers in the most affected sectors, and the reduction shall not exceed (50%) for the remaining sectors.
- The wage after the reduction for the most affected sectors shall not be less than (150) JODs and the minimum wage for the other sectors.

The employer may also assign any of these workers to work remotely for no more than four hours a day and without being paid more than what is provided for in the abovementioned paragraph.

The notice also regulated annual leaves, as it gave employers the right to deduct (50%) of the balance of annual leave due for the year 2020 for workers who are not assigned any work for a period of thirty days or more, whether in continuum or intermittent in the period between 18/03/2020, when the Defense law came into force, and the publication of the notice.

However, the poor structure of the notice led to confusion regarding the deduction of annual leaves, as some employers forced their workers to take their annual leave without their consent and deduct their leaves balance.

It also stipulates that fixed-term employment contracts for Jordanian workers shall be automatically renewed under this notice until the expiry of the Defense Law, unless it is agreed to renew it for a longer period in accordance with the following conditions:

- The contract must have expired on 30/04/2020 or beyond.
- The contract must have already been renewed three times or more.

It was noted though that the paragraph excluded non-Jordanian workers, which led to the loss of many migrants to their jobs, especially those employed in Qualified Industrial Zones on unified contracts. Following the notice, many employers terminated the services of their migrant workers, who were unable to return to their countries due to the imposed curfew and were left in a precarious situation inside their residences.

While both notice (7) and Defence Order (6) were issued by the government as a matter of jurisprudence to protect the workers, they were unnecessary and unneeded due to the existence of article 50 of the Labour law, which states that:

“If the Employer had to suspend the work temporarily for a reason not attributable to him and which he cannot prevent, the Employee shall be entitled to full wage for a period not exceeding the first ten days from the suspension of work within the year and to pay the Employee one half of his wage for the period in excess of same whereby the total of the entire period of suspension of work does not exceed sixty days per year.”

However, on April 8th, the government decided to suspend this article and instead implement paragraphs (e) and (f) of article (4) of Defence Order (6) through this notice, which excluded non-Jordanian workers from its provisions, and which is unjustified and illegal since it is discriminatory against their labour rights and access to justice.[20]

20 Tamkeen for Legal Aid and Human Rights – Notes on Defense Order No. (6) and Notice No. (7)

Fifth: Notice No. (8) issued based on Defense Order No. (6) for 2020:[21]

The notice was issued in accordance with the provisions of paragraph (a) of the tenth article of Defense Order No. (6) of 2020. The aim of the notice was to regulate workers' wages for the months of July and August of 2020 in accordance with notice 7.

It also stipulated that Jordanians' fixed-term contracts shall be automatically renewed until the Defense Law is deactivated, or within a period that is similar to previous contracts, based on which is longer. If the latter choice was taken, the following must be considered:

- The contract must have expired on 01/07/2020 or thereafter.
- The contract must have already been renewed three times or more.

It should be noted that this notice discriminated between Jordanian and non-Jordanian workers in protection.

Sixth: Defense Order No. (9) of 2020:[22]

Since the kingdom remained affected by the pandemic, and either total or partial lockdowns remained implemented in various regions, the government issued Defense Order No.9, which included the following programs

- **Solidarity Program (1):**

The program targeted Jordanians, Gaza refugees, and children of Jordanian women, as it stated that its beneficiaries are workers from these categories who are employed in establishments which their employees are covered by the provisions of the Social Security Law. These establishments shall be identified in executive instructions issued by the Social Security Corporation (SSC) and whose employees (all or some) stopped work during April and May 2020.

Based on the program, employees of these establishments can apply to benefit from the work suspension (temporary unemployment) insurance, if the worker has twelve months of SSC subscriptions and was suspended from work at the establishment.

Consequently, the SSC would undertake to allocate (50%) of the deductible salary of the insured employee, provided that this allocation is not lower than JODs 165 per month and not more than JDs 500; and that the establishment shall pay to the SSC beforehand an amount equal to 20% of the deductible salary of the insured employee, provided that the amount does not to exceed JODs 250 maximum.

If the amount allocated to the employee pursuant to this Program is lower than what is stated in paragraph (e) of the fourth article of Defense Order number (6), the establishment shall pay the remaining amount.

Based on its COVID-19 Response Report, the SSC stated that 86,000 families with about 400,000 individuals benefited from this program, where 7.7 thousand establishments benefited. In terms of **number of beneficiaries, they reached 91,000 workers, including 90,000** Jordanians, 70% of whom were male (63,422 workers) and 30% female workers (27,603).[23] The SSC also stated that 33 million

21 Issued in the Official Gazette No. 5650 dated 20/07/2020 on page 2712
22 Issued in the Official Gazette No. 5634 of 16/04/2020 on page 1996
23 Social Security Corporation, The SSC Response to COVID-19 - First Half of 2021, September 2021

JODs were spent on the program, including 21 million JODs contributed by the SSC and paid in April and May of 2020.

- **Solidarity Program (2)**

The program targeted Jordanians, Gaza refugees, and children of Jordanian women who are employed in establishments which are not covered in Social Security Law provisions. These establishments shall be identified in executive instructions issued by the Social Security Corporation (SSC) and whose employees (all or some) stopped working.

Based on the programs, establishments wishing to benefit from this Program shall submit, no later than 31 May 2020, a request to include all its employees in the work suspension insurance, where the establishment will incur 140 JODs that shall be paid once per each employee to be included. Once they are included, these workers will be included in the insurance until the 31st of December of 2020, and then included in all other insurances as of 1st January of 2020.

The establishment may then apply for its included workers to benefit from the work suspension insurance for April and May of 2020, where **these workers would receive 150 JODs per month per employee. SSC shall pay 100 JODs out of this amount, and the establishment shall pay 50 JODs to SSC prior to disbursement.**

The establishment may also pay in instalments the amounts for the inclusion of its workers under the fund on condition that they are fully settled by end of 2022 maximum, interest-free. SSC was also eligible to identify necessary guarantees and procedures for amounts collection. Finally, the establishments shall pay the amount difference between the disbursed amount per this program and the amount of 50% identified in paragraph € of article 4 of Defence Order number (6) of 2020.

Based on its COVID-19 Response Report, the SSC stated that approximately 13,000 families benefited from this program, including about 64,000 individuals and 2,800 establishments. The figures showed that **about 14,000 insured workers benefited from the program, 49% were males (6,686) and 51% females (6,999) while 98% were Jordanians (approximately 13,000).** [24]

- **Musaned (Supporting) Program (1)**

The program included **all workers regardless of their nationalities,** who are covered under the unemployment insurance, whether their service was terminated or whose work was suspended at the establishment per article 5 of Defense Order number (6) of 2020**, provided that they have 36 subscriptions minimum.**

These workers are required to submit a request to benefit from the work suspension insurance, where they receive an amount equivalent to (50%) of their deductible salary on condition that it is not less than 150 JODs and not more than 350 JODs per month for a period of three months only.

The SSC amended Musaned 1 based on Notice 17 by the Prime Minister which was issued following the issuance of the Defense Order No.24 in December of 2020. The amended program included the provision of a "suspension from work" allowance for period not exceeding six months, provided

24 SSC, The Corporation's Response to the COVID-19 pandemic: First Half of 2021, September 2021

that the worker's subscriptions do not become indebted to the SSC by more than 8% and including any allowance they received in accordance with previous Defense Orders.

The amendment enabled workers who previously benefited from other programs to receive additional assistance for a period of 6 months, as they received 50% of their wage that is subject to the SSC in an amount between 150 – 350 JODs.

Subsequently, the SSC announced that it spent approximately (79.3) million JODs by the end of June 2021 on the program, which benefited 88,000 families, and 91,000 insured workers[25].

- **Musaned Program (2)**

This program included **all workers regardless of their nationality,** since it targeted all workers who are covered under the SSC and currently reside in the kingdom, so long as they meet the conditions determined by the SSC, which were later issued.

According to the program, anyone wishing to benefit from the program can apply to receive an amount from their accumulated subscriptions in the unemployment fund, whereby they would receive a specific amount in accordance with the instructions determined by the SSC for this purpose and up to a maximum of (450) JODs, which would be distributed over three months.

Later, the SSC expanded the criteria of the program's beneficiaries to include those who have a balance of 90 JODs or more, instead of 150 JODs. **According to the Corporation COVID-19 Response Report, the cost of the program amounted to approximately (31) million JODs by the end of June 2021. The program benefited 212,000 families, and 220,000 workers.**

- **Musaned Program (3)**

The program targeted Jordanians who are subscribed under the optional program of the SSC, whose wages are not over 500 JODs, and who have no less than 12 contributions to the SSC.

Thus, these beneficiaries can benefit an advance from their account with the SSC, whereby they would be given a maximum amount of 450 JODs, as long as that amount does not exceed 5% from their contributions.

The cost of the program amounted to about (53) million JODs by the end of June 2021, where 158,000 families benefited, including (167) thousand people with optional SSC subscriptions.

As illustrated above, The Tadamun programs only targeted Jordanians, Gazans and children of Jordanian women residing in the Kingdom, while excluding migrants and refugees who were deprived from benefiting from these social protection programs, even though some of them are subscribers in the SSC and continued to pay their monthly subscriptions. Thus, the exclusion is a clear **indicator of discrimination about social protection**.

25 SSC, The Corporation's Response to the COVID-19 pandemic: First Half of 2021, September 2021

Seventh: Defense Order No. (14) of 2020:[26]

The order was issued with the aim of supporting the sustainability of the private sector and protecting the economy as it addresses the effects of the pandemic particularly on the worst-hit sectors. The program included the launch of the following programs:

- **Himaya (Protection) Program:**

The program benefited any private sector establishment that operates in either the Tourism or Transportation sectors, which are covered by the Social Security Law, except enterprises that are fully owned by the government, public official institutions, or municipalities.

Initially, the period covered under the program to receive the benefits was from June to December 2020, whereby establishments submit applications within a period and not after December 31st, 2020, acknowledging their pledge to pay back the amounts withdrawn to the SSC.

Accordingly, the SSC would allocate 50% of the establishment workers' wages, provided that the sum is not less than (220) JOD and not more than (400) JOD to be paid to the worker, while the establishments is obliged to cover 20% of their workers' wages but not more than (200) JOD. These sums would be provided to the workers from the surplus of the unemployment fund and would be considered a debt on the establishments that must be paid within a period not exceeding 30/06/2023.

The program also stated that the government would bear an interest of 3% annually for the amounts the SSC shall incur through this program. Moreover, the government is obliged to pay these interests within a period that ends on 30/06/2023, while the establishments must bear any interests that follow this period.

According to the COVID-19 Response Report, the total cost of the Hemaya program amounted to (12.7) million JODs, of which 7.6 million was incurred by the SSC, while the establishments covered (5.1) million. The program benefited 11,000 families, and 11,000 direct beneficiaries employed in (333) establishments.[27]

- **Economic Empowerment Program (1)**

The program targeted private sector enterprises in sectors deemed worst hit in accordance with lists issued by the SSC, excluding the sectors of: banking, insurance, electricity, water, telecommunications, and education. Enterprises included in the program would be allowed to include their workers only partially in the retirement fund, while continuing to include them under other insurances.

Initially, the inclusion coverage under this program was limited to the period between June to December 2020, where the enterprises committed to pay 5% of their workers' covered wage under the SSC, while 3.25% of the wage would be deducted for the unemployment fund, and an additional 1% to cover the contribution to the other insurances. **Therefore, the percentage of deductible contribution to the SSC dropped from 21.75% to 13.5%.**

According to the response report by the SSC, **included enterprises were able to save around 46**

26 Issued in the Official Gazette No. 5646 of 16/06/2020 on page 2255

27 SSC, The Corporation's Response to the COVID-19 pandemic: First Half of 2021, September 2021

million JODs during the period when the program was activated, where the monthly saving rate was about 7.7 million for 9,000 enterprises. In 2020, the program benefited about 140,000 workers, 135,782 of whom are male workers (76%) and 43,703 female workers (24%).[28]

- **Economic Empowerment Program (2)**

The program allowed workers who are Jordanian, Gazan and children of Jordanian women residing in the Kingdom to receive an advance from their one-time compensation, whereby the advance could be (5%) of their total wages that is subject to the SSC to a maximum of 200 JODs. The SSC stated that the program will include workers whose wages does not exceed 700 JODs, as well as excluding workers employed in the sectors banks, insurance, electricity, water, telecommunications, and education to benefit from it. Moreover, workers must pay back the advance either upon their retirement or once they receive their one-time compensation, without any interest. Later, workers in the public sector were also allowed to benefit from the program under the same conditions.

According to the SSC, 244,568 workers in the private sector benefited from the program before it was amended. The figures showed that 192,829 were males (79%), and 97% of them were Jordanians (238,383) at the cost of 45.5 million JODs.[29]

In August 2020, the program expanded its coverage to include workers in the public sector, whereby 178,485 people benefited, of whom 113,209 (63%) were males, at a cost of 35.5 million.[30]

In December 2020, the SSC amended the program again based on Notice No. 17, which was issued based on the provisions of Defense Order 24, where it allowed workers in included private sector establishments to possibly apply for an advance from their one-time compensation at the rate of 8% of their wages subject to SSC, with a maximum of 500 JODs for Jordanians and 200 for non-Jordanians. These advances would be paid once, provided that the workers' wage does not exceed 1500 JODs. These advances must be paid by the worker either upon their retirement or once they receive their one-time compensation, without interest. **Through this amendment, 81,754 people benefited, all of them were Jordanians, and 61% were males (50,030) at a cost of 27.23 million JODs.**[31]

Defense Order No. (24) of 2020:[32]

The government issued Defense Order No. (24) to alleviate the economic burdens on private sector establishments incurred by the COVID-19 pandemic. The order focused on the economic activities that were the worst hit due to not being provided the authorisation to return to work. Subsequently, the order extended the programs that were announced under Defense Orders 9 and 14. It also reinstated the suspension of old-age (retirement) insurance issued under Defense Order No. (1) of 2020 in accordance with the mechanisms and periods determined by the SSC.Based on the order, the Estidama program was created in cooperation between the government and the Social Security Corporation.

28 SSC, The Corporation's Response to the COVID-19 pandemic in 2020, March 2021
29 SSC, The Corporation's Response to the COVID-19 pandemic in 2020, March 2021
30 SSC, The Corporation's Response to the COVID-19 pandemic in 2020, March 2021
31 SSC, The Corporation's Response to the COVID-19 pandemic: First Half of 2021, September 2021
32 Issued in the Official Gazette No. 5683 dated 15/12/2020 on page 4609

Estidama Program

The Social Security Corporation announced the Estidama program in partnership with the government. The program would benefit its target from December 2020, until the end of 2021. The SSC asserted that the program would target private sector enterprises employed in sectors that are not authorized to work as well as sectors most affected by the pandemic. The former sectors will be determined in accordance with instructions issued by the Director General of the SSC.

According to the program, workers would receive (50%) of their wages as listed with the SSC, where the payment received would be between a minimum of (220) JODs per month and a maximum of (500) JODs. The program would also bear the contributions of workers under the SSC, with a ceiling of (1000) JODs for each worker, while their enterprises would bear the amounts that exceed this ceiling.

As for workers in the sectors most affected by the pandemic, they will be allocated (75%) of their wages as listed with the SSC, where the program would bear (50%) of the sum and not more than (500) JODs per month, while the enterprises bear the remaining (50%). The monthly sums received by these workers should not be less than 220 JODs per month, and if the 75% was below, the program would cover the difference.

The SSC asserted that only workers covered under the umbrella of the SSC could benefit from this program, though it allowed workers in establishments most affected by the pandemic to cover who were registered under the SSC in the period between March to October of 2020.

According to the Social Security Corporation, 218 million JODs were allocated to the program, including 1.5 million JODs that the SSC incurred on behalf of supporting enterprises not authorized to work, by covering their contributions to the SSC, while it spent 113 million JODs towards the most affected establishments.

In terms of contributions from the establishments, it amounted to approximately (88) million JODs, where the program benefited 70,808 workers employed in 4,139 establishments, of whom 40,027 (49%) were females and 41,355 (51%) were male workers.[33]

33 SSC, The Corporation's Response to the COVID-19 pandemic: First Half of 2021, September 2021

Chapter Four: Migrant Workers in Jordan before and during the Pandemic

Status of Migrants in Jordan

In Jordan, migrant workers are employed in various economic sectors. Recent data show that **workers from Egypt make up the largest number of Arab migrant workers in the Kingdom**, with 54.1% of the total number of work permits issued for them. Meanwhile, Syrians accounted for 8.5% of issued work permits, while workers from other Arab countries accounted for only 0.3%. In terms of Arab workers, **Bangladeshi workers ranked first with 12.9%, followed by workers of Indian, Filipino and Sri Lankan nationalities with 4.8%, 3.7% and 2.3% respectively**.[34]

In terms of the geographical distribution of these workers, 52.1% of the total non-Jordanian workers with work permits are in the capital **Amman**, while their concentration in other governorates was as follows: Irbid with 17.5%, Zarqa with 9.8%, Balqa with 8.3%, Ajloun with 0.6%, Tafila with 0.9%, and the lowest percentage in Aqaba with 0.4%.[35]

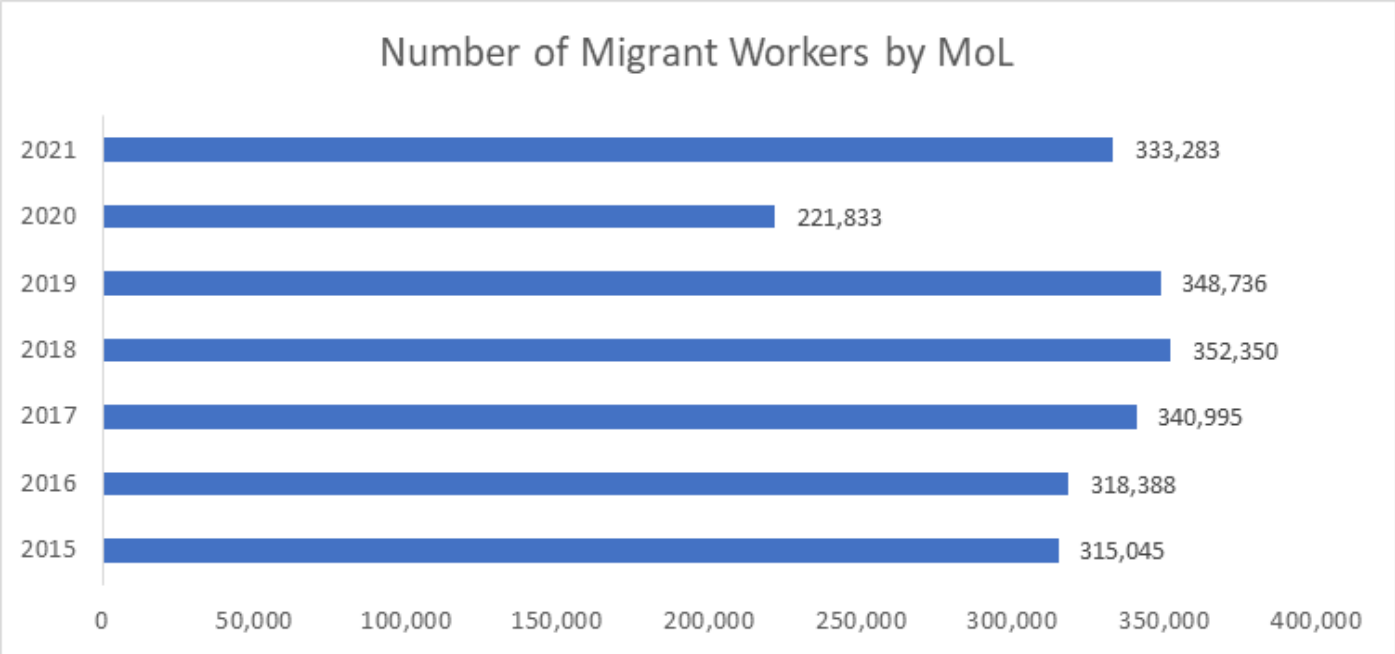
During their work in Jordan, migrant workers are subjected to several violations. Some of them work for long hours in periods that exceed 10-14 hours per day, while others are not provided with holidays, or vacations. Domestic workers, guards, and agricultural workers are prevented from leaving their workplace (often the house of their employers) due to the nature of their work, which requires them to be on demand for 24 hours. Some migrants also experience delays or non-payment of wages, are forbidden from contacting their families, have their documents seized, or experience various forms of psychological and physical assault. [36]

The rate and severity of violations against migrant workers increased during the **COVID-19 pandemic**. Many workers suffered as a result of the complete curfew imposed by the Defense Law of 1992. Many workers were forced to stay in their workplaces, such as those in agriculture, the Qualified Industrial Zones (QIZ), and domestic workers. Other workers reported that they faced a double jeopardy since many employers had to reduce production costs, which led them to issue decisions that impacted workers' wages or led to their arbitrary dismissal. It should be noted that these violations occurred despite numerous efforts by the government to limit them. However, the lack of a dedicated policy to address crises led to an increased rate of violations faced by workers.

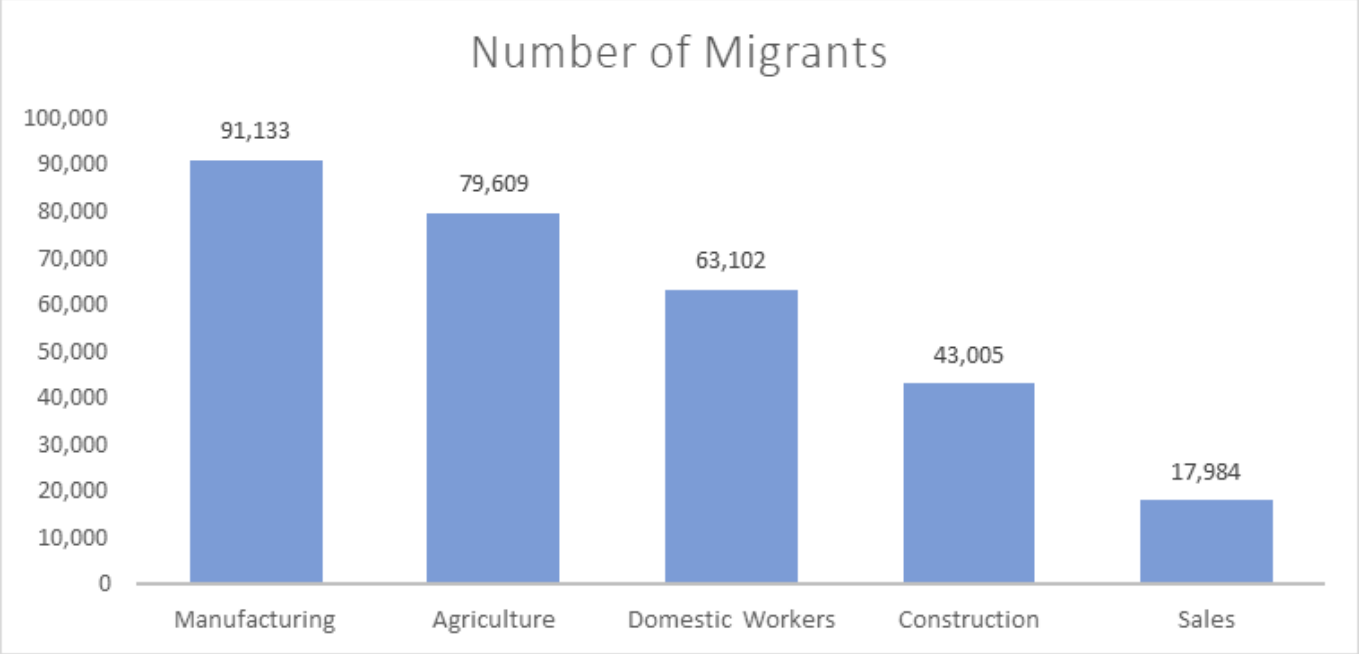
34 Jordanian Ministry of Labor, Annual Report 2021
35 Jordanian Ministry of Labor, Annual Report 2021، Page 27: Distribution to business sectors
36 Tamkeen Fields for Aid, Welled in Alimentation, 2016

Numbers of Migrant Workers

According to the figures issued by the **Ministry of Labour**, there are **about 333,283** workers in Jordan with a valid work permit. These workers constitute (18.4%) of the labour force in Jordan. The figure below shows the fluctuation in the number of migrant workers monitored by the MoL within the last 6 years:



According to the Ministry of Labor's 2021 Annual Report, migrant workers are employed in the following sectors:



Meanwhile, the data by the Social Security Corporation (SSC) shows that there are 1,114,972 Jordanians who are covered under its umbrella and which constitute (89.5%) of the total active individuals insured for 2020. Meanwhile the number of **non-Jordanians is 138,854 workers**, which amounts to (10.5%) of the total for the same year.

The table below shows the total number of people covered by SSC according to their gender, nationality, and economic sector:

Economic activity	Jordanians				Non-Jordanians				Total	%
	Male	Female	Total	%	Male	Female	Total	%		
Agriculture Fishing and Forestry	3217	491	3708	0.30%	2134	12	2146	1.50%	5854	0.50%
Mining and Quarries	6463	329	6792	0.60%	716	6	722	0.50%	7514	0.60%
Manufacturing	84945	27283	112228	10.10%	39892	34841	74733	53.80%	186961	14.90%
Electricity, Gas and Water	12827	1235	14062	1.30%	696	4	700	0.50%	14762	1.20%
Construction	23224	3066	26290	2.40%	10214	305	10519	7.60%	36809	2.90%
Wholesale and Retail	95540	17525	113065	10.10%	19183	741	19924	14.30%	132989	10.60%
Tourism	27868	3323	31191	2.80%	11002	494	11496	8.30%	42687	3.40%
Transportation, Storage and Communications	31812	7454	39266	3.50%	1794	148	1942	1.40%	41208	3.30%
Finance	22879	12401	35280	3.20%	415	80	495	0.40%	35775	2.90%
Real Estate Activities	40144	14753	54897	4.90%	3137	330	3467	2.50%	58364	4.70%
Public Administration, Defense and Social Security	391903	128369	520272	46.70%	4715	352	5067	3.60%	525339	41.90%
Education	32927	63470	96397	8.60%	1187	1059	2246	1.60%	98643	7.90%

Health and Social Work	16485	20584	37069	3.30%	1276	881	2157	1.60%	39226	3.10%		
Community Service Activities	12101	7121	19222	1.70%	2491	519	3010	2.20%	22232	1.80%		
Organisations	2488	2294	4782	0.40%	101	63	164	0.10%	4946	0.40%		
Domestic Workers for Families	315	130	445	0.04%	60	6	66	0.05%	511	0.04%		
Insurance	5	1	6	0.00%	0	0	0	0.00%	6	0.00%		
Total	805143	309829	1114972	100.00%	99013	39841	138854	100.00%	1253826	100.00%		

The SSC annual report showed a decrease of 2.3% in the number of insured individuals between **2019 and 2020.** The number of active insured individuals in 2019 reached 1,345 million, of whom 163,000 were non-Jordanian, and who represented (12.4%) of the total active participants. The decrease in active membership is attributed to many workers losing their jobs due to the pandemic. Indeed, official reports indicate that around 190,000 workers lost their jobs in 2020[37]. On the other hand, the cumulative number of retirees increased by 12% from 242,000 retirees by the end of 2019 to about 271,000 retirees by the end of August of 2021[38].

The SSC annual report for 2020 also shows that the number of Jordanian workers dropped by 2.9% in Jordan from 1.378 million in 2019 to 1.338 million in 2020. The data show that males constituted 71.9% of active subscribers in 2020, while females constituted 28.1%. Meanwhile, Jordanians constituted 89.5% of subscribers, compared to 10.5% for non-Jordanians. These numbers clearly highlight the low participation numbers of both female and non-Jordanian workers, which left them particularly vulnerable when the pandemic hit since they were excluded from social protection programs.

Workers' contributions are also affected due to the difference in the minimum wage, which is set at 260 JODs for the Jordanian worker, and 240 JODs for non-Jordanians, except for domestic workers, QIZ workers and loading and offloading workers. Figures issued by SSC affirm the inequality between the wages of workers based on their nationalities, where the average wage for Jordanians amounted to 583 JODs compared to 315 JODs for non-Jordanians. These numbers indicate that the gap between workers is 268 JODs, which is considered a clear discrimination that violates decent work standards.

37 SSC, Annual Report 2020
38 SSC, Annual Report 2020

If we compare the above two sources, there are approximately **200,000 migrant workers with work permits who are not registered in social security**. Subsequently, these workers are not covered by the various social protection programs provided by the SSC, thus depriving them from their rights in the event of work injuries, unemployment, or retirement. It should also be noted that the **MoL indicates that there are around one million workers employed in the informal economy.**

Migrant Workers in the Informal Economy

The 'informal economy' is defined as "all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements"[39]. **Informal employment** meanwhile is defined as "comprising all jobs in informal sector enterprises, or all persons who, during a given reference period, were employed in at least one informal sector enterprise, irrespective of their status in employment and whether it was their main or a secondary job"[40].

The informal sector was defined as: "a group of production units that are either enterprises owned by individuals or households, including those owned by those who work for their own account, as well as those owned by employers and has workers employed in them."

Interest in the informal economy recently increased in Jordan, due to the expansion of the informal economy in the Kingdom. Indeed, a recent study by the World Bank indicated that **the Jordanian economy is currently dealing with a double-edged crisis: the first relates to the high unemployment levels, while the second is concerned with the informal economy.** The report highlighted the latest data from the Statistical Department, which shows that **unemployment hit 23% by end of 2021.** The same figures show that the most unemployed are either youth or women. Meanwhile, more than half of the workers in the private sector are employed in the informal economy, including migrants. These workers, regardless of their nationality, are more likely to be subjected to violations and lack of coverage by social protection schemes[41].

The Jordanian government has attempted to fix this situation multiple times, including the ratification of a national framework on the matter in 2015. The framework, entitled "Towards a National Framework for a Transition to Formal Economy in Jordan," aimed to foster a more integrated approach to formalise Jordan's informal sector, to ensure decent work and living conditions, social justice, increased productivity, and economic growth[42].However, these efforts did not prevent the informal economy from further expanding, as it reached 15% of the Kingdom's GDP[43].

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39 International Labour Organisation, Effect to be given to resolutions adopted by the International Labour Conference at its 90th Session (2002), (b) Resolution concerning decent work and the informal economy; Governing Body, 285th Session, Seventh item on the agenda; Geneva, November 2002 (doc. GB.285/7/2)

40 Ibid

41 The World Bank, Jordan Economic Monitor - Spring 2022 : Global Turbulence Dampens Recovery and Job C reation, 2022
https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099410007122222740/idu05823c2b70646004a400b9fa0477cea7736a4

42 ILO, Jordan endorses a national framework for regulating the informal economy, 2015
https://www.ilo.org/beirut/media-centre/news/WCMS_363990/lang--en/index.htm

43 IMF Working Paper, Shadow Economies Around the World: What Did We Learn Over the Last 20 Years?, 2018 at: https://www.imf.org/~/media/Files/Publications/WP/2018/wp1817.ashx

In terms of the size of the informal economy compared to the workforce, the ILO shows that the **number of workers who are either employed by an institution or identify as self-employed has increase from 1,660 million in 2010 to 2,250 million in 2019, which is a 35% increase.** Meanwhile, figures by the SSC show that the number of insured workers under its umbrella was 1,317 million by the end of 2019.

Due to the absence of official numbers on the Informal Economy in Jordan, the Jordanian Strategy Forum published a paper in 2020 where it estimated that there are 933,000 informal workers in Jordan. The numbers were based on data from the Social Security Corporation, which said that the number of insured workers under its umbrella was 1.317 million people by the end of 2019. Since the total number of those working is 2.249 million, **this means there are 933,000 working informally. If the number is correct, then these workers constitute 41.4% of total workers**.[44]

However, the number was criticised by several experts who said that the method used to calculate it is not accurate. One of the critiques said that the report "neglects the fact that a large percentage of self-employed workers are officially licensed and registered and work within a legal framework. As a result, these workers do not constitute informal workers. On the other hand, there are workers who work in officially registered establishments but are not registered in social security as their employers evade being covered under its umbrella."[45]

The latest report to assess the size of the informal economy in the Kingdom was issued by the Central Bank, entitled: "Assessment of the size of the Informal Economy in Jordan between 2002-2020", which indicated that the rate of the informal economy in the period between 2002 – 2020 was at around 26.5% from the GDP, while it was 24.7% in 2020 using the MMI method.[46]

Regardless of the size of the informal economy, workers in it were left stranded when the COVID-19 pandemic hit, as it revealed the fragility of social protection and the shortcomings its coverage in Jordan. As the crisis persisted, its economic and social impact began affecting the lives of workers in non-vital sectors, particularly informal workers, including daily workers.

Throughout the imposed curfew, Tamkeen monitored the status of these workers in various sectors to document their struggles. This will be further fleshed out in the next chapter.[47]

44 Jordanian Strategy Forum, Informal Workers in Jordan: Learnt Lessons from the Coronavirus Pandemic, 2020. Found at: shorturl.at/yBK27

45 Mousa Subeihi, Spokesperson for SSC: shorturl.at/myzRX

46 Central Bank of Jordan, 2022
https://www.cbj.gov.jo/Pages/viewpage.aspx?pageID= (In Arabic)

47 Tamkeen for Legal Aid and Human Rights, Under Curfew series

To curtail the effects of the pandemic, the Jordanian government announced a series of decisions to provide benefits to several vulnerable categories, including: the poor, daily workers, the elderly, as well as Palestinians and Gazans. The government said that these benefits were provided to compensate for the impact caused by the governmental measures that were taken to reduce the effects of Corona virus. These procedures included the launch of several platforms that offered electronic services or targeted specific categories like the elderly and daily workers.[48] A special account was also created to collect donations that would then be distributed to informal workers.[49]

However, it was noted that neither the measures announced by the Social Security Corporation nor by the National Aid Fund mention migrant workers, refugees or even the children of Jordanian women who do not have a Jordanian nationality.

It should also be noted that the announced programs relied on E-Wallets to deliver assistance to the beneficiaries. These wallets are financial services provided by a number of companies in Jordan, under the supervision and control of the Central Bank of Jordan. It allows users the opportunity to manage all their financial transactions from their own mobile phones in an easy, safe, and fast way[50].

Even though this step might look positive, it in fact does not consider the realities of many of the beneficiaries it aimed to serve. While these wallets do facilitate the process of transferring money, they require the user to have a modern smart phone that could be compatible with the application's operating system, as well as an active internet connection. However, those targeted in these programs are in financially tight situations. Thus, some of them might not have a phone, an active internet connection, or both.

Defence Order No. (6) confirmed the government's endeavour to provide support to informal workers, provided they join the SSC, as mentioned in paragraph 7: "the Government is aiming to secure basic life essentials for Jordanian day labourers, who are not included in the social security system, provided that they subscribe to social security." However, this opportunity was not actually utilised to transition informal workers into the formal sector, as several entities suggested. It was also noted that the program did not refer to owners of small shops like barbers, mechanics, and handymen, even though they are considered daily workers and were badly hit by the crisis.[51]

48 https://service1.ssc.gov.jo/sscaid/
49 shorturl.at/wGVWY
50 shorturl.at/adU35
51 https://alghad.com/%D8%A3%D9%85%D8%B1-%D8%AF%D9%81%D8%A7%D8%B9-9-%D9%87%D9%84-%D9%81%D9%88%D8%AA%D8%AA-%D8%A7%D9%84%D8%AD%D9%83%D9%88%D9%85%D8%A9-%D9%81%D8%B1%D-8%B5%D8%A9-%D9%86%D9%82%D9%84-%D8%B9%D9%85%D8%A7%D9%84/

Chapter Five: The Impact of COVID-19 on Migrant Workers

The COVID-19 pandemic negatively affected the world economy, especially its most marginalised and vulnerable segments. These effects did not differentiate between national or migrant workers, though its economic effects were disproportionate on informal workers and those with flexible work permits.

Throughout the pandemic, Tamkeen monitored the status of migrant workers in various sectors, regardless of whether they were classified vital or not. These sectors included health, agriculture, sales, restaurants, product delivery, childcare and domestic workers. Tamkeen particularly highlighted their conditions after the Jordanian government announced their exclusion from most social protection programs.

During this period, **Tamkeen did the following:**

- Provided **1,228 legal services,** including **7 collective cases** that involved **3,603 QIZ workers.** These complaints were submitted by **Jordanian, Syrian, Egyptian, Yemeni, Palestinian and Somali** workers;
- Provided in-kind and food assistance to **160 domestic workers**;
- **Targeted 2,650 beneficiaries of all nationalities in 190 legal awareness sessions;**
- **Aided 33 daily workers in registering under the umbrella of SSC;**
- **Issued 15 specialised reports.**

In total, Tamkeen recorded more than 800 cases of violations on workers' labour rights, but most of them refused to file complaints for fear that their services would be terminated, noting that it would be difficult to find an alternative opportunity.

During the imposed COVID-19 curfew, many migrant workers working in different economic sectors such as loading and offloading, beauty salons, and services, were subjected to numerous violations. Meanwhile, many employers incurred debt because their institutions were forced to close.

In terms of the living conditions of daily workers, many reported a decline due to the lack of income caused by being forced to stop working. This resulted in an accumulation of debts and an inability to secure their basic needs, including rent, loan installments, water and electricity bills, and house necessities.

During the interviews Tamkeen conducted with workers, they insisted that their living conditions will worsen considering the pandemic and the decisions that were issued because of it. They added that they expected that the impact of the pandemic will be felt for years to come. Lastly, they reiterated that their debts would increase since their income is limited and working opportunities are scarce.

Even though workers in all sectors were subjected to various violations, the study will flesh out the working conditions of workers in qualified industrial zones, agriculture, construction, and domestic workers, as these sectors have the highest concentration of migrant workers.

The following sections will thus highlight the working conditions and access to social protection for each of these workers:

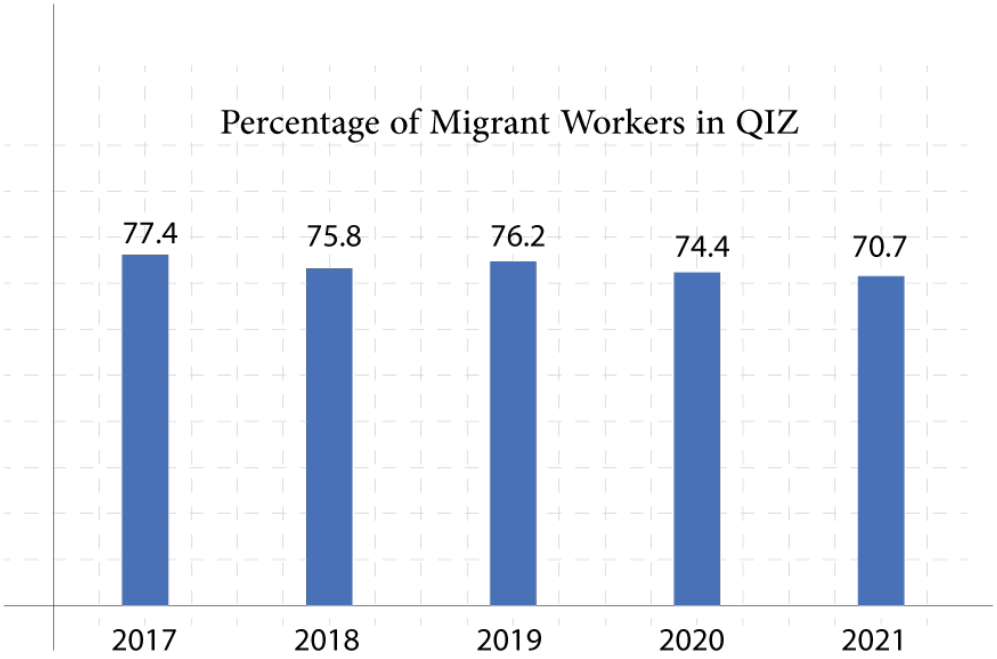
First: Qualified Industrial Zones Workers

Qualified Industrial Zones were established after the signing of the Free Trade Agreement (FTA) between the Jordanian and US governments in 2000, which was subsequently ratified in 2001. In accordance with Article (6/1) of the agreement, both parties shall abide by the standards of the International Labour Organization (ILO) that respect and protect the rights of workers. Article 6/6 defines these rights:

- The right to form trade unions.
- The right to organize and to collectively bargain.
- Prohibition of the use of any form of forced or compulsory labour.
- The minimum age for child labour.
- Acceptable working conditions in relation to the minimum wage, working hours, occupational safety, and health.

These **industrial zones** employ one of the largest segments of migrant workers, as **48,622** migrants are employed in them out of a total of 68,813 workers according to the 2021 annual report by the Ministry of Labour[52]

These workers are distributed amongst 61 companies in 7 main zones, which are: Al Hassan Industrial City, Al Dleil, Sahab, Al Karak, Amman Chamber of Industry**,** Zarqa Chamber of Industry and Ma'an Development Chamber.[53] The figure below shows the percentage of non-Jordanian workers in the QIZ out of their total number of workers:



52 Ministry of Labor / Statistics Department
53 Annual Report of Development Zones 2021 / Ministry of Labor

Legislations on the Social Protection of QIZ Workers

Instructions, Conditions and Procedures for the employment and recruitment of non-Jordanian workers in the Qualified Industrial Zone for 2007 (and its amendments)[54]

In 2007, the Minister of Labour issued the instructions, conditions and procedures for the employment and recruitment of non-Jordanian workers in the Qualified Industrial Zones pursuant on Article (4) of the Non-Jordanian Workers' Permit Fees Bylaw No. (36) of 1997 and its amendments.

Article VIII of these instructions stipulates that employers, or their representatives, should visit the relevant Directorate of Labour upon getting the approval, for further verification of the application and completion of procedures of getting the permits. **The submitted documents shall include a certificate issued by the Social Security Corporation asserting that all employees at the institute are registered under its umbrella.**

According to article (11.1), the employer must also submit an annual and automatically renewable bank guarantee that, following a decision of the Minister, may be at disposal in case the employer breached any of their obligations required by law, regulations, and these instructions. These guarantees are thus used to protect migrant workers' rights in the QIZ, as they could be used to cover the expenses of plane tickets or overstay fines of workers in case employers violated the provisions of the labour contract or failed to issue workers with the necessary permits in time.

Bylaw No. 43 of 1998 on the Prevention and Safety of Industrial Machinery and Worksites:

Article (2) of the bylaw stipulates that the employer or the responsible manager in the institution must take the necessary precautions and measures to ensure the safety of mechanical, electrical, and chemical hazards of machinery, industrial machines, and work sites. The bylaws determine the types of mechanical, electrostatic, and chemical hazards and methods of prevention that should be implemented with each type. Each institution shall provide guidance and warning boards about the types of raw materials, manufactured materials, machines, and various processes that are followed, and the risks associated with each step. These boards shall also include the necessary technical instructions for the prevention of injuries and work accidents, and shall be hung in prominent places. The management is also obliged to conduct the necessary periodic maintenance of machines.

According to article (8), employers are obliged to explain to workers the dangers that they may be exposed to as a result of their work if they are hired in a hazardous job for the first time. They must also provide them with the proper training for a period of not less than one month under the direct supervision of the head of the department.

Additionally, occupational safety and health inspectors at the Ministry of Labour need to be informed of the technical and scientific characteristics of raw chemical materials and compounds that each facility utilises within their industrial processes in order to determine the safety levels that should

54 http://www.mol.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D8%AA%D8%B9%D9%84%D9%8A%D9%85%D8%A7%D8%AA_%D8%B4%D8%B1%D9%88%D8%B7_%D9%88%D8%A7%D8%AC%D8%B1%D8%A7%D8%A1%D8%A7%D8%AA_%D8%A7%D8%B3%D8%AA%D8%AE%D8%AF%D8%A7%D9%85_%D9%88%D8%A7%D8%B3%D8%AA%D9%82%D8%AF%D8%A7%D9%85_%D8%A7%D9%84%D8%B9%D9%85%D8%A7%D9%84_%D8%BA%D9%8A%D8%B1_%D8%A7%D9%84%D8%A7%D8%B1%D8%AF%D9%86%D9%8A%D9%8A%D9%86_%D9%81%D9%8A_%D8%A7%D9%84%D9%85%D9%86%D8%A7%D8%B7%D9%82_%D8%A7%D9%84%D8%B5%D9%86%D8%A7%D8%B9%D9%8A%D8%A9_%D8%A7%D9%84%D9%85%D8%A4%D9%87%D9%84%D8%A9_%D9%84%D8%B3%D9%86%D8%A9_2007.pdf

be implemented in each distinct working environment.

Instructions for the Prevention of Health Damage caused by Residential Units of Labor Communities No. 1 of 2013:

These instructions stipulated the conditions that residents of employers shall abide by in Qualified Industrial Zones, which include:

A. The location of the residential unit should not be next to any sources of pollution or noise. Instead, the distance between the unit and these sources should not be less than 500 m.
B. The residential unit shall allocate independent places dedicated to the purposes of sleeping, sitting, cooking, eating, as well as bathrooms, in accordance with the conditions specified in these instructions.
C. It is not permissible to use the residential units or any part thereof for work purposes or to store raw materials or materials produced for work.
D. The residential units shall be provided with a sign or plaque indicating its name and which shall be installed at the entrance of the unit.
E. Each residential unit shall have a supervisor appointed to it, and who has knowledge of public health and safety matters.

Factory owners must also abide by the following conditions for the dormitories:

A. Provide a floor area of at least 3.5 m^2 for each worker.
B. If bunk beds are used, the floor area mentioned in the above clause shall cover the space occupied by the bed, provided that the vertical distance between the two bunks shall not be less than 70 cm, and that the safety conditions shall be met.
C. The height of the bed should not be less than 30 cm from the floor surface and the beds should be separated from each other by a distance of at least 70 cm.
D. Each room should have a suitable bed and wardrobe for each worker.
E. The height of the room should not be less than 2.8 m.
F. One room should not house more than 12 workers.
G. Provide cabinets or shelves for shoes in the corridors on each floor in sufficient number.

Each residential unit or group of residential units must contain health facilities in appropriate numbers, provided that they have walls that are easily cleaned (ceramics), and that they are in a suitable location so that their presence does not cause a health disorder such as the emission of odors, water flow, the accumulation of dirt, and others. Each facility must meet the following requirements:

a. The distance between the health facilities and the residential unit (building) should not exceed 20 meters if it is separated from the building, and the roads leading to the facility/ies should be roofed to protect workers from exposure to weather conditions.
b. The facilities' doors should not open directly to the kitchen or dining room.
c. The distance between the facilities' doors and kitchen or dining room doors should not be less than 4 m.
d. The health facility should contain at least one toilet for every 15 workers and be equipped with a rinse tank.

e. Each residential area should be provided with at least one shower for every 15 workers.
f. Each health facility should contain at least one sink for every 15 workers.
g. A waste basket of appropriate size shall be provided for each health facility.
h. If appropriate, each facility shall have a changing room.
i. The facility should have cold and hot water.[55]

Despite these legislations, workers in QIZ were subjected to various violations in relation to their basic labor rights. These violations include delays in payment of wages, long working hours, deprivation of holidays, confiscation of passports, as well as violations related to their to occupational safety and health and access to healthcare, adequate food, and housing conditions.

QIZ workers and the COVID-19 pandemic

On 20/03/2020, defense order (2) was issued, which prohibited the movement of people starting from the morning of 21/03/2020. Due to the decision, all economic facilities had to shut down starting from 24/03/2020 until 31/05/2020. At the time, the lockdown included all economic activities, except those that were designated as essential. Therefore, clothing stores had to close, which in turn led them to cancel their orders from factories, which led to the loss of many of their job opportunities. Workers were unable to leave the QIZs to purchase their necessities or had to walk for long distances to secure them, as they are in areas far from them.

To limit the impact of the pandemic, the Jordanian government cautiously began allowing some economic sectors, including factories, to resume production to lessen the economic impact of the measures it had to take to curtail the spread of the virus. It thus allowed for some factories, especially those that employ migrants that reside inside the zone, to go back to work on 18/04/2020. These factories were instructed to adopt strict preventive measures and to disallow entry and exit from the zones. The decision also stipulated that only workers residing inside the QIZ can return to the factories, adding that they need to fully comply with the procedures related to occupational safety and health to prevent the spread of Corona virus.

Despite their return to work, many workers admitted that they did not receive their wages through the electronic wallets. These wallets were announced by the Jordanian government as a convenient way to pay workers. However, many workers admitted that they did not have smartphones to support these wallets, nor data bundles to access it. It should also be noted that these wallets were only available in Arabic or English, which constituted another difficulty for migrants coming mainly from India or Bangladesh, and who could not understand the platforms or how to use them.

Moreover, most of the programs announced by the Social Security Corporation through Defense Order 9 excluded QIZ workers, even though they are registered under its umbrella, and despite the fact that their wages were cut in half in accordance with Defense Order 6.

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Factory owners also did not install surveillance cameras for the purposes of inspection on healthcare and social distancing measures that ought to be abided by as announced by the Ministry of Labour. Instead, inspection procedures were limited to supervisors who were tasked with ensuring that workers remained distant from each other while working in the factory. However, these measures did not include their dormitories, despite their overcrowding. Moreover, numerous workers complained about not being provided with personal protective equipment (PPEs), disinfectors, or cleaning equipment. It should be noted that these complaints were recorded despite the existence of several previous cases that centered around the living and working conditions and their incompatibility with the conditions we mentioned above.

It was also noted **that the management of some factories exploited the situation of workers by forcing them to sign resignations or terminating their contracts following promises by employers that the workers would resume working after the end of the pandemic.**

During the first two months of the pandemic, Tamkeen received 7 complaints by **3,603 workers working** in QIZ. These complaints centered on the non-payment of wages, termination of services, forced resignation, lack of health care, and inappropriate working and housing environments, including the quality of provided food and drink. Some of the workers also added that their employers informed them that they are not responsible for their wages as they should be paid by the SSC.

Tamkeen received a complaint by a group of 13 workers who work in a factory in a QIZ. These workers were asked to stop working on March 18, 2020. In April, they were told that they did not get permission to resume work, though they were asked to work from time to time. Later, the workers and their employer agreed regarding their return to India due to the pandemic, and in turn the employer agreed to settle their April wages, as well as their tickets, SSC contributions, and vacations. Meanwhile, they were asked to sign a resignation letter and were subsequently paid their wage for the month of March. In the first week of May, their employer called and told them that he would not allow them to return to India and would not pay them their April wages. He also told them that they would not be provided with food if they did not return to work.

Occupational Health and Safety

The provision of a safe and secure work environment is one of the pillars of the social protection structure, as it seeks to increase the level of efficiency and means of prevention from work-related risks. This, in turn, will lead to the reduction of occupational injuries and diseases, protecting workers from accidents. These measures are especially important due to the serious material and moral damages entailed by work accidents and injuries on workers. Such incidents negatively affect workers, their families, and the institutions where they work, as well as cause enormous economic losses.

According to the International Labour Organization (ILO), Occupational Safety and Health (OSH) can

be defined as the discipline in dealing with the prevention of work-related injuries and diseases, as well as the protection and promotion of the health of workers. It can also be defined as the measures that oblige employers to take appropriate preventive measures to make work safer and healthier, and to encourage improvements in the safety and health of workers at work.

Official data by the Social Security Corporation (SSC) indicates that 14-15 thousand work injuries or accidents are reported each year in Jordan, with an average of an incident each 40 minutes. The SSC also reported that these accidents, which occur in both private and governmental establishments, cause a death every 5 days. Since it was established, the SSC recorded more than 430,000 injuries, with an annual rate of 14,000 injuries[56].

In 2020, approximately 1.1% of the total number of insured people under the umbrella of the SSC were injured in a work accident, **88.4% of whom were Jordanians compared to 11.6% who were non-Jordanians.**

According to the SSC, the majority of work injuries occur in the manufacturing sector, including the garment industry.[57] Contextually, Tamkeen received several complaints regarding OSH in the QIZ, which confirms the lack of public safety tools and a healthy work environment in many factories and companies. These complaints show that many workers are being subjected to several occupational illnesses and injuries but that these institutions report them to the SSC.

According to the complaints, some workers were injured due to their work with machines; meanwhile, some were diagnosed with respiratory diseases due to the lack of good ventilation in their workplace and residence, and others now suffer from eye diseases due to bad lighting.

During the pandemic, it was noted that many residences were not provided with occupational safety and health tools. The absence of these tools lead to the spread of the virus between workers due to the status of the residences which are cramped and ill-fitted for social distancing regulations. The spread resulted in workers being exposed to waves of hate speech after an article about the incident was posted online, even though the virus could infect anyone, regardless of their nationality or gender.

At the time, Tamkeen issued a statement that stated that “the hate speech directed against workers originated from many commentators and critics who are ignorant of the indecent working conditions that these workers are subject to, whether related to their low wages, absence of relevant safety and health standards, or being housed in uninhabitable places, amongst other violations.”[58]

56 Tamkeen for Legal Aid and Human Rights, Position Paper on Work Injuries and the Absence of Occupational Health and Safety standards in the workplace, 2020

57 Ibid

58 Ghada Al-Sheikh, For being infected with the COVID-19... A campaign of incitement, abuse and hatred against Bangladeshi workers In Jordan, Rafeef 22 – published online on October, 1st, 2020

Tamkeen received a complaint concerning a group of 38 Indian workers who are employed formally in a factory. The workers stated that they did not receive their wages for the month of April 2020, and that their living conditions are extremely bad due to issues related to the sewer system. The workers stressed that the employer is not abiding with occupational safety and health guidelines as they were not given personal protective equipment (PPEs). They also remembered an incident that occurred in 2018 when a worker got sick, but the employer refused to provide him with any medical care. Subsequently, his colleagues collected money for him so he could buy a ticket and return home. However, he died in the airport and his family was never reimbursed or given his SSC subscriptions. The workers affirmed that they were not paid their wages, which they need to send their families. Otherwise, they need help returning home after receiving their dues.

Second: Agricultural workers

Agriculture is considered an important and vital sector that contributes to job creation, which in turn provides income to vulnerable segments of society like migrant workers, refugees, and women. According to 2019 statistics, 2.47% of workers in Jordan are employed in this sector.[59]

Most agricultural workers in Jordan are either migrants, Jordanian women or Syrian refugee families, as Jordanian males tend to stay away from this sector. Indeed, it was noted that Jordanians have a poor participation rate in this sector due to its poor work conditions, particularly low wages and physically demanding labor. Therefore, Jordanians are reluctant to work in this sector and search for other jobs. As a result, the sector has become more "feminised" due to the increase of its Jordanian female workers compared to their male counterparts.

The 2021 Employment and Unemployment Survey report confirms the above: there are 22,241 Jordanian workers employed in the agriculture, forestry, and fishing sector, 1,923 of whom are women. In other words, the sector currently only employs 3.3% of all Jordanian workers, 3.7% of all male workers and 1% of all female workers.[60]

Government data shows that Egyptian workers make up most workers in this sector. In the past decade, the government has attempted to reduce the number of Egyptian workers and replace them with Jordanians by suspending the issuance of work permits for migrant workers in the sector. However, these efforts were unsuccessful as the rate of migrants in the sector increased from 69% in 2002 to 93% in 2013, while it was at 74% in 2017.[61]

Workers in the sector originally come from Egypt, Bangladesh, or Syria, as refugees[62] In 2021, the

59 https://www.statista.com/statistics/385599/employment-by-economic-sector-in-jordan/
60 Department of General Statistics - Employment and Unemployment Survey Report 2020 https://bit.ly/3z5bdER
61 https://rb.gy/awatum
62 https://rb.gy/uyewov

Ministry of Labour (MoL) issued 1,208 flexible work permits for Syrian refugees in the agricultural sector under the umbrella of cooperatives[63].In total, the MoL has issued 82,544 flexible agricultural work permits. These workers are mainly employed in farms in the Jordan Valley, as well as Irbid, Mafraq and Karak.

Agricultural workers are usually employed on a daily, weekly, or seasonal basis. Even workers who are employed in food factories receive their monthly wages calculated based on their daily work, wherein annual leaves are not calculated.

Workers in the agricultural sector continue to struggle, as they face inadequate living conditions and a widespread rate of labour rights violations. In recent years, Tamkeen noted that many of these workers receive low wages, lack written contracts, social security, health insurance, and are not provided with occupational safety or health tools. Many of these violations are due to the informal nature of agricultural work, which leads to the promotion of poor working conditions[64].

Many agricultural workers live in substandard accommodations that are located next to the farms where they work. In 2018, the ILO conducted a study that showed that most of these accommodations are tents that lack windows, adequate ventilation, and lighting. The study added that 77.9% of workers stated that their tents are deteriorating, which puts them at risk of illness or infections. Moreover, these workers lack basic sanitation facilities, including showers, toilets, sanitation, and garbage disposal infrastructure[65].

For years, the situation of these workers was exacerbated by their exceptional legal status since they were not included under the labour law. Thus, they were deprived of their basic rights regarding their working hours, vacations, wages, etc. Consequently, these workers were vulnerable to many violations, including forced labour. These workers were also not included under the umbrella of the Social Security Corporation (SSC). **Although there was no explicit legal text that excludes agricultural workers, the SSC maintained that they are excluded from its inspection mandate under the pretext that a system to regulate their status had not been issued. Therefore, these workers were not covered under any of the corporation programs, including work injuries, old age, disability, death, maternity, and unemployment**. After 13 years of advocacy, the problem was finally addressed through the issuance of the System for Agricultural Workers in 2021.[66]

63 https://rb.gy/js0g4d

64 ILO, Decent work and the agricultural sector in Jordan: Evidence from field surveys with workers and employers، 2018 https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_646189.pdf

65 https://rb.gy/bhq3hs

66 System to regulate the status of Agricultual Workers (19) for 2021, published on May 2nd, 2021 in the official gazette number 5715. (in Arabic)

Legislation on social protection and agricultural workers

In May of 2021, the Jordanian government approved the Bylaw to regulate the status of Agricultural Workers. The approval of the system was delayed for 13 years, following their inclusion under the provisions of the Labour Law in 2008. At the time, their inclusion was conditioned on the issuance of two systems, one for regulating the status of agricultural workers and the other for the status of domestic workers. While the system for domestic workers was issued the following year, the system for agricultural workers was not.

The approved system, which was later published in the official gazette, contained 17 articles.[67] **The most important of them was the inclusion of agricultural workers under the provisions of the Labour Law, as well as under the umbrella of Social Security Corporation**. However, the system excluded workers employed by anyone with less than 4 workers from the provisions that regulate working hours, vacations, and inclusion in the Social Security Corporation.

Despite the issuance of the bylaw, workers in the agricultural sector were only covered under one insurance in the SSC, namely on work injuries due to a **Communiqué No. 41 issued by the Prime Minister** based on the Defense Law. The communique stipulated that workers shall be included under the other insurances by early 2023, though this was later postponed until the beginning of 2024, while enabling employers to include their workers under the pension insurance.

These facilities were decided considering the impact of the COVID-19 pandemic on the sector. However, they violate the Social Security Law, which clarifies the mechanism for determining the categories covered by its insurances in paragraph (a) of Article (4) of the Law, which included all workers subject to the provisions of the Labour Law. Following the issuance of the bylaw, this category includes agricultural workers who have the right to be included under all insurances.

The bylaw also had a major gap, as it excluded employers who hire three workers or less from abiding with articles 4, 5, 7, and 12 of the bylaw, which regulate working hours, weekly holidays, overtime, annual and sick leaves, as well as the right of the workers in being included under the umbrella of the SSC. The exclusion would translate to many workers being denied their basic labour rights, since many agricultural lands are usually classified as micro or small businesses.

Following the adoption of the bylaw, the following instructions were also issued:

Instructions for the Inspection Procedures on Agricultural Activity for 2021:

These instructions became effective on 16/10/2021 and determined the responsibilities of inspectors when visiting agricultural establishments. Therefore, these visits shall verify whether the working conditions legislations are implemented as follows:

A. Working Regulations, including the following for example:

1. Working conditions in terms of age, gender, and nationality.
2. Work structures in terms of working hours, breaks, weekends, and holidays.
3. Workers' wages in terms of punctual payments and any deductions that are contrary to the Labour Law.

67 The 2021 System to Regulate the Status of Agricultural Workers (in Arabic) http://www.mol.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D9%86%D8%B8%D8%A7%D9%85_%D8%B9%D9%85%D8%A7%D9%84_%D8%A7%D9%84%D8%B2%D8%B1%D8%A7%D8%B9%D8%A9_%D8%B1%D9%82%D9%85_19_%D9%84%D8%B3%D9%86%D8%A9_2021.pdf

4. The employment of non-Jordanian workers.

B. Working conditions, including the following for example:

1. Provision of occupational safety and health requirements stipulated in the law, regulations, and relevant instructions.
2. Checking on work injuries for workers not covered under the umbrella of Social Security Law.
3. Provision of health requirements in terms of the provided housing to agricultural workers, if any, in accordance with the relevant legislation.

The Labour Inspector shall also request from the Minister or their delegate to prohibit employers who were found to forcibly, threateningly, fraudulently, or coercively, employ agricultural workers, or commit violations against them including the seizure of their documents from recruiting or employing non-Jordanian agricultural workers for a period that is determined in accordance with the procedures in force in the Ministry. The prohibition shall also be implemented in case the employer, or their representative, physically or sexually harassed or assaulted agricultural workers.

Instructions on the conditions of occupational safety and health at agricultural work sites for 2021:

Based on these instructions, agricultural employers are obliged to take all necessary measures to provide occupational safety and health tools to workers to ensure a safe working environment, and protect them from any danger, including:

1. Mechanical hazards caused by agricultural machinery and tools such as transportation vehicles, loading and offloading tools and other machinery or tools used in agricultural work.
2. Physical hazards that could be caused by low and rising temperatures, noise, vibrations, lighting, and atmospheric pressure changes.
3. Electrical hazards such as those caused by electrical machines and tools used in agricultural work.
4. Biological hazards such as the risk of infection, allergies or poisoning by bacteria, viruses, fungi, and parasites.
5. Chemical hazards caused by the handling of solid, liquid, and gaseous chemicals.
6. Hazard fire and explosions during the process of storing, transporting, or circulating flammable hazardous materials.

Employers must also:

1. Provide workers with personal protective equipment to prevent the risks of agricultural work and occupational diseases such as clothes, glasses, gloves, shoes, and others, in accordance with the relevant legislation.
2. Conduct the initial medical examination of workers before their employment to ensure they are fit to carry out agricultural work and that they do not have communicable or infectious diseases. The employer conducts periodic examinations on them to monitor

their fitness and to detect any communicable or infectious diseases that they might have caught, provided that the employer must bear the cost of these tests.

3. Take immediate steps to stop any operation that poses an imminent and serious risk to the safety and health of agricultural workers and evacuate them if the need arises.
4. Provide guidance and warning boards and take all measures to prevent any risks.
5. Provide an ambulance and maintain cleanliness and organization in agricultural workplaces.
6. Train agricultural workers and ensure that they are aware of the risks associated with their jobs and the means of prevention that are in place.
7. Take all measures to protect pregnant or breast-feeding working women from the dangers and diseases that may result from agricultural work and the machinery used in it.
8. Take all measures to protect seasonal temporary workers from the dangers of agricultural work.
9. All work related to lifting weights should be carried out automatically as much as possible, and if the nature of the agricultural work requires the agricultural worker to lift weights, their health condition shall be considered and ensure that workers are fit and able, and they are trained on the methods of lifting weights.
10. When dealing with chemicals, the following shall be considered:
    a) Adhere to the permissible threshold limits for chemicals to which the agricultural worker is exposed.
    b) Provide the necessary precautions to protect the agricultural worker and the establishment when transporting, storing, handling, and using hazardous chemicals and disposing of their waste.
    c) Maintain a record of the inventory of chemicals in circulation including all the data of each substance to monitor the agricultural working environment and the exposure of the agricultural worker to the risk of chemicals.

d) Label all chemicals traded in agricultural work indicating their scientific and commercial name, chemical composition, degree of severity, safety precautions and emergency procedures related to them.

11. Maintain a safety data bulletin for chemicals in circulation.
12. If an agricultural worker who is not covered under the Social Security Law suffers a work injury that leads to his death or causes him a severe injury, the employer shall be obliged to transfer the injured person to the hospital or any medical center.
13. The agricultural employer is obliged to inform the Ministry of accidents and injuries suffered by agricultural workers within 48 hours of the accident through the means determined by the Ministry.

Agricultural workers during the Corona pandemic

These labour rights violations that agricultural workers face were especially evident in the context of the COVID-19 pandemic, as it exacerbated already poor working conditions. Indeed, many workers reported an increased rate of violations committed by employers, as noted in the reports that Tamkeen published during the lockdown imposed in March 2020[68].

68 Under the Curfew Series
https://tamkeen-jo.org/covid-19

Throughout the curfew that was imposed to curtail the spread of the virus, many agricultural workers were cut off from the outside world and were unable to leave their housing inside the farms where they work, which meant they could not secure their needs. Daily workers were not paid their wages, which ultimately forced many of them to return to work even without the appropriate permits, and secure their own PPEs since they were not provided by many employers[69].

The impact of weak social protection on agricultural workers was significantly evident during the full lockdown period. Many formal workers reported that they had to sleep in farms, which were far away from residential areas which they had to reach by foot to buy their essentials. These workers were neither paid their wages, nor provided with any PPE tools as well. As for formal workers with flexible work permits or informal workers, they could not work, pay their rents, or even receive any healthcare. **They also could not benefit from the social protection programs announced by the Social Security Corporation as they were not covered under its umbrella at the time; meanwhile, some of them benefited from the daily workers' fund. However, that fund only covered Jordanians, which meant that neither migrant nor refugee workers could receive any assistance from it.**

Third: Construction Workers

Workers in the construction sector could either be formal or informal, though most of them are characterized as the latter. These workers originate from various countries including Egypt, India, Pakistan, and Bangladesh. The employment of these workers is usually based on labour agreements that lack any social protection guarantees or compensations.

Construction workers are employed in numerous contexts and varying working conditions. They could be working for their own account in various projects, or employed with different employers at the same time and receive daily wages based on their work. Others work in workshops, through contractors where they get paid after the work ends or daily. Another group consists of those who are employed in construction companies, either through temporary oral or written employment contracts that extend for a number of months, or in some cases to even annual contracts. It is worth noting that work in the sector is very active in the summer and spring seasons, while its rate declines during the other seasons.

Often, construction workers are not covered under the umbrella of social security for the following reasons:

- Daily Workers: workers - regardless of nationality - move between different employers, and their work does not last for more than 16 consecutive days, which prevents them from being covered in social security, according to the law.
- Legality of Employment: Non-Jordanian workers must obtain work permits to be able to work legally, but many migrant workers and Syrian refugees work illegally based on one or more

69 Tamkeen Publications Legal Aid and Human Rights – Under Block 4 - The impact of the Corona crisis on workers and female workers.
https://tamkeen-jo.org/upload/%D8%AA%D8%AD%D8%AA_%D8%A7%D9%84%D8%AD%D8%B8%D8%B1_4-_%D8%A3%D8%AB%D8%B1_%D8%A3%D8%B2%D9%85%D8%A9_%D9%83%D9%88%D8%B1%D9%88%D9%86%D8%A7_%D8%B9%D9%84%D9%89_%D8%A7%D9%84%D8%B9%D9%85%D8%A7%D9%84_%D9%88%D8%A7%D9%84%D8%B9%D8%A7%D9%85%D9%84%D8%A7%D8%AA.pdf

of the following practices:

- Issuing a permit for a profession that is different from the one in which the worker works, such as working in construction but having an agricultural work permit.
- Having a work permit issued by one employer but being employed by another.
- Working with an expired work permit.
- The lack of desire of the employers or even workers themselves to issue work permits.

The above leaves the worker working informally as he is unable or unwilling to renew the permit, as well as unable to participate in social security.

Legislation on social protection and construction workers

The recruitment and employment of non-Jordanian construction workers is regulated by the **Instructions for the Conditions and Procedures of Bringing and Employing Non-Jordanian Workers for 2012 and its amendments,**[70] which states in article 4 that employers wishing to recruit non-Jordanian workers are obliged to fill in a form that includes a certified list issued by SSC that all the employer's workers are included under its umbrella. Employers must also deposit a judicial or bank guarantor that would guarantee workers' rights, no less than 300 JODs for each worker.

Article 11 also stipulated that non-Jordanian workers shall be granted a no-objection letter that would allow them to withdraw their SSC subscriptions before they leave the country, provided that the application is submitted within a period not exceeding three months from the date of the expiry of their work permit. Otherwise, the worker shall pay their work permit fee prior to being provided the no objection. Workers without a valid work permit can only be granted the no objection if they express their desire to leave the country permanently and are willing to retroactively pay the permit fees for the entire period of their coverage under the SSC.

However, this article contradicts Article 12 of the Labour Law No. 8 of 1996, which obliges the employer, not the worker, to issue the work permit and pay its fees. Therefore, the instructions prohibit workers from withdrawing their SSC subscriptions based on a violation committed by the employer.

Article 32 of the Jordanian Labor Law stipulates that workers who are subject to the provisions of the Social Security Law and whose service ends for any reason have the right to receive an end of service reward at a rate of one month for each year of employment, while parts of a year, pieces or commissions are calculated based on the monthly average of what the worker received for these services.

As for the Social Security Law, article 4 specifies the cases in which the worker's relationship with their employers is deemed regular, as follows:

70 http://www.mol.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D8%AA%D8%B9%D9%84%D9%8A%D9%85%D8%A7%D8%AA_%D8%B4%D8%B1%D9%88%D8%B7_%D9%88%D8%A7%D8%AC%D8%B1%D8%A7%D8%A1%D8%A7%D8%AA_%D8%A7%D8%B3%D8%AA%D8%AE%D8%AF%D8%A7%D9%85_%D9%88%D8%A7%D8%B3%D8%AA%D9%82%D8%AF%D8%A7%D9%85_%D8%A7%D9%84%D8%B9%D9%85%D8%A7%D9%84_%D8%BA%D9%8A%D8%B1_%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86%D9%8A%D9%8A%D9%86_%D9%84%D8%B3%D9%86%D8%A9_2012_%D9%88%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA%D9%87%D8%A7.pdf

a. A day laborer working sixteen days or more in any given month.
b. An hour, piece, shipment laborer or the like who works sixteen days or more in any given month, regardless of the number of working hours, pieces, or shipments per day.
c. A laborer who is paid monthly, regardless of the number of working days per month, except for the first month of work to which the principle of sixteen or more working days per month shall apply.

In 2019, the Bylaw for Non-Jordanians Work Permits No. 142 was amended, as article 2 stated that workers in the sectors of construction, agriculture, and loading and offloading are eligible to issue flexible work permits. **In 2021, it was estimated that 10,900 workers issued a flexible work permit in these sectors.**

Construction workers in COVID-19 pandemic

The weakness of the social protection framework provided for construction workers was noted during the pandemic, as both formal and informal workers faced a multitude of problems. Workers in the sector could not benefit from the programs announced by the SSC either because they were not registered under its umbrella or due to the exclusion of migrant workers from most programs. Subsequently, these workers were unable to pay their rent, buy their necessities or send money to their families back in their home countries.

Due to the fragility of social protection provided to these categories, SSC announced on 30/06/2021 to include workers with flexible work permits under its umbrella. The SSC also indicated that **the coverage would include the injuries, unemployment, maternity, death, and natural disability funds, while they would be allowed to be partially covered under other funds. In terms of the wage that workers' contribution will be based on, the SSC indicated that it must not be less than the minimum wage for non-Jordanian workers, and not less than (20%) of the last wage of the worker if he was previously covered under the SSC.**

The corporation also pointed out that the inclusion of flexible permit holders would be conditional on workers paying their full subscriptions for the duration of their permits. The SSC added that the inclusion of these workers would provide them with social protection and the regulation of labour market.

It ought to be noted though that workers with flexible permits **do not have a specific wage or fixed income per month. Therefore, most of these workers would pay their subscriptions based on the minimum wage for non-Jordanians at 230 Jordanians[71], which means that each worker will have 46 JODs deducted monthly from their wage.**

71 Two decisions issued by the Tripartite Commission for Labor Affairs to raise the minimum For wages Two exports Required Provisions of Article (52) From the Jordanian Labor Law No. (8) For the year 1996 and its amendments on 24/2/2020

Fourth: Domestic Workers

The number of domestic workers is around 70,000, of whom 54,000 are registered, mostly from the Philippines, Sri Lanka, and Bangladesh[72]. Migrant domestic workers in Jordan, who come from several Asian and African nationalities, have jobs that include: cleaning the house in general, washing utensils and clothes, ironing clothes, cooking, caring for children, playing with them, preparing them to go to school, getting them to the bus, and sometimes to school, caring for the disabled, the sick and the elderly, accompanying the family while shopping to carry shopping bags, and shopping from neighbouring stores.

Domestic workers are either regular workers who have work permits and residence permits and who work for a specific employer and live in the employer's home; or regulars who work in homes but live outside the employer's home. Another group includes irregular domestic workers, who leave the workplace, either as a result of violations such as non-payment of wages or the length of working hours or other labor, living or physical violations. Some of these workers, however, leave the workplace for no specific reason, due to not adapting, enduring alienation or not liking the nature of the work. Some of these workers just leave, while in other cases, the employer refuses to transfer them after the end of the work contract or after giving them a "release" to transfer to another employer.

Regardless of which category these workers belong to, **domestic workers are not covered under the umbrella of social security as stated in the System for Domestic Workers, Cooks, Gardeners, and similar categories No.90 of 2009 and its amendments in 2020.** The bylaw is void of any social protection provisions, which is in contradiction with some court decisions that ruled for domestic workers deserving an end of service reward since they are not covered under the SSC[73].

However, other rulings objected towards this reasoning as these courts found that the **legislator had referred domestic workers to their own system that regulates all their rights and duties, which did not include this right since these workers are not subjected to the Labour Law which mentions the end of service reward[74].**

In terms of irregular workers, they are independent workers who work outside the realm of the laws as they do not have work permits and live in their own apartments. These workers tend to work for specific hours at different houses, and left their employer either after their contract expired or after being subjected to violations by their previous employer.

Domestic workers during the COVID-19 pandemic

After the lockdown was declared, Tamkeen received several complaints from domestic workers who reported that they were treated badly by their employers, due to the pressure of work that has been inflicted upon them by the presence of all family members throughout the day, and their many requirements, especially regarding continuous sterilization and disinfection. These demands have been reflected in their working hours as they increased to 16 working hours per day, without

72 Invisible Women: The Working and Living Conditions of Irregular Migrant Domestic Workers in Jordan – study by Tamkeen for Legal Aid and Human Rights

73 Decision by North of Amman Court (4525/2014)

74 Decision by North of Amman Court (1898/2013)

holidays or rest periods. Moreover, numerous workers stated that they did not receive their wages since their employers claimed that they did not have money since they were not working because of the lockdown. It is noted that wage issues continued throughout the lockdown. Indeed, Tamkeen received around 260 complaints from domestic workers regarding the non-payment of their wages for long periods. It was also noted that no domestic worker was able to benefit from the SSC programs since they are not covered under its umbrella.

In terms of informal workers, they struggled because of the curfew since they depend on their daily work for income. Thus, these workers have no way to live and provide the needs of daily life. More than 600 domestic workers have communicated with Tamkeen to report that they are unable to provide for their daily needs of food, sterilization materials, and other basic requirements.

One worker told Tamkeen:

> **"I am not currently working because of the curfew, and now I have little milk for my child. I have not been able to travel, and I hope the curfew will not last long."75**

Amongst them are more than thirty mothers who were suffering from being unable to provide diapers and milk for their children. While workers complained about their inability to pay the rent for the house, and that if the payment is not paid, they would be ejected. **Informal workers also faced another unique challenge in terms of their access to the COVID-19 vaccine, once it was available. These challenges were initially related to the conditions set by the government, as passports were a prerequisite for migrants and their children to receive the shot. However, the government replaced the requirement to migrants' personal numbers, per their residency permits, following criticism by the civil society.**

Legislation on Social Protection and Domestic Workers

In 2021, the Jordanian government approved **the instructions related to the insurance policy for non-Jordanian domestic workers.**[76] These instructions stated that insurance policies should be issued for domestic workers as a prerequisite for the issuance of their work permit or their transfer to work for another employer. The insurance policy should cover the following:

1. Death from any cause.
2. Work accidents.
3. The transportation of the worker's body to their country of origin, or the cost of their burial in Jordan.
4. In-hospital medical insurance.
5. Financial losses incurred by the employer or recruitment office resulting from the domestic worker's refusal to work or leaving the workspace.

75 Enabling Legal Aid and Human Rights, Series Under Ban

76 http://www.mol.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D8%AA%D8%B9%D9%84%D9%8A%D9%85%D8%A7%D8%AA_%D9%85%D9%83%D8%A7%D8%AA%D8%A8_%D8%A7%D8%B3%D8%AA%D9%82%D8%AF%D8%A7%D9%85_%D8%A7%D9%84%D8%B9%D9%85%D8%A7%D9%84%D8%A9_%D8%A7%D9%84%D9%85%D9%86%D8%B2%D9%84%D9%8A%D8%A9_2020.pdf

In terms of workers' medical insurance, it shall cover the following:

1. The cost of medical treatment that require hospitalisation, including doctors' fees, hospital treatment expenses, other medical procedures expenses, laboratory and radiological examination fees, medication costs, or other expenses.
2. Intensive care accommodation costs, CT and MRI, diagnostic procedures, doctors' fees for supervision, anaesthesia, operations, and any other services provided by the hospital.
3. The costs of therapeutic surgeries, which do not include spending one or more nights in the hospital but require medical care, such as tonsillectomy, catheterization, endoscopy, or others.
4. Serious diseases that require the attention of specialists or requires medical treatment or surgery within the hospital, including cancer, cardiovascular disease, kidney failure, epilepsy, or stroke.
5. Treatment costs arising from attempted suicide or intentional self-harm.

Moreover, the policy covers financial losses that either the recruitment office or employer could incur, if the worker refused to work or left the workplace as it covers:

1. The recruitment or transfer cost for the worker, which is calculated based on a decision issued by the Minister for this purpose.
2. A percentage of the worker's ticket for their return to their country of origin.
3. Medical expenses in case the worker needed them during their return journey, as long as they do not exceed 3,000 JODs.

The other type of insurance covers for financial losses incurred by the owner of the home or office resulting from the worker's refusal to work, or leaving the house and not returning, and it covers:

1. The costs of recruiting or transferring the worker according to the decision of the Minister issued for this purpose.
2. A percentage of the costs of the ticket for the return of the worker to his home country.
3. The expenses of the necessary medical care in case the worker needs it during his return trip to the country of origin and a maximum of 3000 JODs.

The Filipina worker came to Jordan in 2018. After her contract ended in 2020, she could not return to her come country due to the imposed lockdown and the hiked prices of plane tickets. Throughout the pandemic, she worked for long hours up to 16 hours a day, did not get any days off, and was physically assaulted by the employer. The worker also did not receive her wages for the previous 4 months.

Conclusion and Recommendations

Social protection policies and programs are absent from most economic sectors in Jordan. Current programs remain weak due to the lack of rights-based social protection programs. Rather, current programs are temporary and seek to alleviate impacts of crises on the poor and margianlised groups in the society through food or oil product subsidies. During COVID-19, as the study illustrated, social safety net programs targeted specific groups but excluded others.

The Jordanian labour market is also witnessing a decline in decent working conditions, especially for migrant workers and workers in the informal economy. Unfortunately, the COVID-19 pandemic exacerbated the situation, as it affirmed the weak social protection system in the kingdom, and its inadequacy to respond to crises in terms of its coverage of all workers and ability to cover their basic needs.

Therefore, Tamkeen recommends the following:

1. Expand the umbrella of social security to cover all workers in Jordan. The definitions of insured workers and employers should also be expanded to become inclusive of all economic sectors including domestic workers.
2. Develop the necessary plans to limit the expansion of the informal economy and include its workers under the umbrella of SSC, in addition to finding legal and regulatory frameworks that help the transition of its workers to the formal economy.
3. Strengthen the capacities of social protection programs, increase the allocations and inclusion of all vulnerable groups, and assist them in cash and in kind.
4. Repeal article (15) that exempts employers who only have 3 workers or less from being covered from crucial provisions in the system. The current exemption leads employers to deliberately lessen their number of workers, which increases the rate of unemployment and the number of informal workers. Moreover, the current provision is discriminatory against workers as it does not provide everyone with the same level of protection.
5. Strengthen inspection mechanisms on working conditions for workers, especially migrant and domestic workers, towards the protection of their rights.
6. Document the lessons learnt from the COVID-19 pandemic and the repercussions of the decisions issued to reduce its impact, particularly the effects of the Defense Orders on the labour market and the various labour groups to avoid any losses that were incurred by mismanagement or delays.
7. Repeal Article (11) of the Instructions on the Conditions and Procedures for the Employment and Recruitment of Non-Jordanian Workers of 2012, which stipulates that a non-Jordanian worker shall be granted no objection to be able to receive their SSC contributions when s/he wishes to leave the country.
8. Issue the bylaw stipulated upon in Article (4) of the Social Security Law, on the inclusion of Domestic Workers under its provisions.

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