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For legal aid and human rights

The Status of Jordan's Agriculture Sector

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Introduction

Jordan is one of the most water-scarce countries in both the region and the world. Due to such limited natural resources, the kingdom's arable land was estimated at around 2.818 million dunams based on the latest agricultural census carried out by the General Statistics Department in 2017. The same census showed that 28% of the total area of agricultural land in Jordan (about 760,000 dunums) are abandoned lands.[1] The kingdom's main agricultural lands are located in the Jordan Valley, and the highlands in the governorates of Ajloun, Irbid and Mafraq.

Despite the kingdom's limited resources, 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.[2]

The majority of agricultural workers in Jordan are either migrants, Jordanian women or Syrian refugee families, as Jordanian males tend to stay from from this sector. Indeed, it was noted that Jordanians have a poor participation rate in the sector due to the 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 "femi nised" due to the increase of Jordanian female workers in the sector 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, 1923 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).[3]

While the sector has contributed to improving Jordan's economic performance due to the work opportunities it provided for farmers, recent data also show that its contribution to the GDP is at its lowest compared to other sectors[4]. Data from the General Statistics Department show that the agricultural sector only contributed 4.6% to the GDP in 2019[5]. It is important to note though that the sector continues to struggle due to resource scarcity. Not only is Jordan ranked the 4th poorest country in water resources, there is also only a limited amount of agricultural land available in the Kingdom. These challenges have resulted in Jordan importing 85% of its foodstuff needs.[6]

1 Ministry of Agriculture, Als l Flock In numbers. - Statistics Agricultural 2008-2018, 2019 https://bit.ly/3kwGrCM
2 https://www.statista.com/statistics/385599/employment-by-economic-sector-in-jordan/
3 Department of General Statistics - Employment and Unemployment Survey Report 2020 https://bit.ly/3z5bdER
4 independentarabia.com/node/162721/Economy/Investigations-Economic/Has-Bat-Self-Sufficiency-Agricultural-Possible-In-Jordan?
5 Al-Ghad newspaper, Agriculture in Jordan. The most important economic sectors at the bottom of the list, 2020 (in Arabic) https://bit.ly/3mbF9Od
6 Independent Arabia Article (in Arabic) https://bit.ly/3EChxsc

Moreover, 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, and 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.[7]

These labour rights violations 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.[8]

As a result, the Jordanian government tried to address these challenges. Its first step was to address the legal grey area that workers had found themselves in since 2008: although the labour law did stipulate a system to regulate agricultural workers in article (3) paragraph (b), it required that this system be legally issued before it could actually go into effect [9]. This issuance was only approved and published in the Official Gazette thirteen years later in May 2021. [10]

7 ILO, Decent work and the agricultural sector in Jordan: Evidence from field surveys with workers and employers, 2018 https://bit.ly/3IXEn07
8 Under the Curfew Series https://bit.ly/3Y5o9X3
9 Labour Law (8) of 1996 and its amendments (in Arabic) https://bit.ly/3kznRdm
10 System to regulate the status of Agricutulral Workers for 2021 (in Arabic) https://bit.ly/3ZmDFyB

The Agriculture Sector in Numbers

In recent decades, the rural population has decreased in Jordan. In 2019, only 9% of the kingdom's total population was living in rural areas, compared to almost half of the population in 1960. The decline is due to numerous reasons, including the growing phenomenon of rural-to-city migration, and low incomes generated from agricultural activities. Moreover, poor level of services provided in the countryside, and the increase in wage rates in other economic activities such as industry and services have all contributed to the decline, particularly given that the average income of these two sectors is estimated at about 3 times the average income of agricultural work .

The contribution of the agricultural sector to the GDP has also declined, as it is currently considered at its lowest compared to other economic sectors. For example, a comparison between the service and agriculture sectors shows that the former contributes approximately 62% to the GDP, while the latter contributes less than 5% (1.4 billion JODs). Indeed, official figures stated that the agriculture sector accounted for only 0.06% of the 2019 GDP growth of, which was estimated at 9% by the end of that year[11]. Moreover, only 1.7% of Jordanian workers are employed in the agricultural sector[12], while approximately 52% of women living in rural areas work informally in agriculture.[13]

Government data show that Egyptian workers make up the majority of 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. [14]

Workers in the sector originally come from Egypt, Bangladesh, as well as Syrian refugees.[15] In 2021, the Ministry of Labour (MoL) issued 1,208 flexible work permits for Syrian refugees in the agricultural sector under the umbrella of cooperatives.[16] In total, the MoL has issued 82,544 flexible agricultural work permits. These workers are mainly employed in farms that are located in the Jordan Valley, as well as in Irbid, Mafraq and Karak.

11 Al-Ghad newspaper, Agriculture in Jordan. The most important economic sectors at the bottom of the list, 2020 (in Arabic)

12 Jordan Strategy Forum Paper
13 Agriculture Minister in a speech to the National Food Security Forum held on 3 and 4/4/2021
14 https://rb.gy/awatum
15 https://rb.gy/uyewov
16 https://rb.gy/js0g4d

The reality of workers in the Agricultural sector

Initially, it should be noted that there is a gendered division of labour in the agricultural sector in Jordan. Thus, men usually take up management roles, while women's involvement in leadership and decision-making is low. In terms of tasks, women participate in a wide range of activities, that including weeding, harvesting, irrigating, caring for livestock and food processing (e.g. dairy products and wool) [17]. Meanwhile, men are responsible for land preparation, pesticide of crops, planting the crops and marketing the products that were processed by the women.

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

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 the majority 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 .[18]

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 with regard to their working hours, vacations, wages, etc . Consequently, these workers were vulnerable to many violations i ncluding 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.[19]

17 UN Women, Malika Abdel-Al , 2011. Empowering women in the rural labour force with a focus on agricultural employment in the Middle East and North AfricaAM .4-6

18 https://rb.gy/bhq3hs

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

The lack of social protection coverage for agricultural workers was particularly notable during the COVID-19 pandemic, which exacerbated their legal problems. They were not covered in any of the government programs announced by the government, and the curfew left them unable to leave their homes, reach the farms or secure their livelihoods. Throughout the curfew, these workers were not paid their wages, since they are often paid daily. Some were forced to return to work, even without obtaining the necessary work permits, while others were not provided with the needed occupational safety and health equipment by their employer.[20]

Al Shawish[21]

The Shawish is not a new phenomenon in Arab agricultural communities . Indeed, the S hawish was known among Syrian agricultural workers before they came to Jordan: it refers to the person responsible for covering the needs of employers in terms of recruiting and managing workers, regardless of their nationality, age, or gender. Specifically , the Shawish oversees the progress of the work and the transportation of workers to and from the farm. The S hawish, who can be either male or female and Jordanian or Syrian, is also responsible for paying the workers their wages.

Despite the widespread nature of this phenomenon, the Shawish profession remains unregulated and is not mentioned in any procedures or decisions issued by the Ministry of Labour. Rather, the position was established due to the need of farm owners to coordinate their workers, the numbers of whom could exceed 100 in some farms.

The Shawish chooses the workers based on their personal relationship with them. As the linkage point between workers and employers, they usually base these decisions on the nature of the work. For their efforts, the Shawish receives one JODs from each worker. They are responsible for documenting employees' working hours, assigning tasks and later paying their wages. Sometimes, the Shawish also resolves disputes amongst workers themselves or between workers and employers. In other cases, the Shawish negotiates with some families that work in the sector in exchange for lodging and utilities at the farm for a specified wage paid by the employer.

The importance of the Shawish role comes from his or her direct relationship with the employer, who usually entrusts him or her to supervise the tasks and payment of workers. In turn, the Shawish gains the respect of the workers and receives a higher wage from both the employer and the workers, who pay the Shawish a half JOD or more for selecting them. Workers also pay the Shawish an additional sum if s/he transports them to and from the farm.

20 Tamkeen for Legal aid and human rights, Under Curfew 4 - Impact of the COVID-19 crisis on workers https://bit.ly/3IXECs3

21 This section of the paper is based on the field experience of the Tamkeen team and the sessions held by the field team with the agricultural workers.

Through its work in the field, Tamkeen asked workers and employers their opinions about the Shawish. Both sides agreed that there are positive and negative practices that are attributed to the Shawish, which can be summarized as follows:

Positive practices by the Shawish

- **The** Shawish manages the relationship between workers and resolves any disputes between them.
- The Shawish limits the interaction between workers and employers.
- The Shawish is responsible for the management of workers' wages and working hours, which limits the possibility of issues arising between workers and employers.
- The Shawish secures working opportunities for the workers that s/he knows.

A Shawish and a worker in Mafraq

A refugee in Zaatari camp recounted his experience with a shawish in Mafraq, as follows:

"The shawish performs his role without prejudice towards either the employer or the workers. He is quite known in the area for being fair, so some employers prefer not to work with him since he is not biased to their advantage. Rather, he sticks to the agreement that was made regarding the working conditions. He also:

- Does not give in to any employer, regardless of the discussion or the outcome.
- Ensures that workers receive their full rights without any deductions to their wages or extensions to their working hours.
- Forbids any verbal or physical abuse to be practiced on anyone, including the employer.
- He works to resolve any issues with employers peacefully, otherwise he terminates the agreement and leaves with all the workers.
- Supervision of workers' duties to ensure that the employer is satisfied and that the tasks are fully implemented.
- Treats workers fairly and does not force anyone to work.

Negative practices by the Shawish

- It was noted that many Shawishes side with employers, which negatively affects workers' rights.
- Many Shawishes use obscene and profane language with workers, especially when they supervise a large group of workers to subdue them unto control. This language is even used against child workers.
- The Shawish deducts between 1-1.5 JOD from the daily wage of workers, in addition to receiving a large sum of money from the employer in exchange for providing him with the workers and supervising their work.
- Sometimes workers are forced to work overtime either without payment or with deducted wages.
- Some Shawishes are biased in terms of their selection of workers, as they prefer to select their own family, friends, and acquaintances.
- Some Shawishes delay providing workers with their wages and blame the delay on the employer.
- Brokerage : Some Shawishes agree with employers on a specific wage for workers, but then inform workers that he agreed with the employer on a lesser wage, and then takes the difference for himself. This type of practice was particularly common with Shawishes employing refugees who work in the farms but reside in the camps.

One example is a Shawish working with an employer who owns olive fields. He usually agrees with the employer that workers shall receive 1.25 JOD for each box of harvested olives they pick. Later, the shawish pays the workers 1 JOD for each box and takes the .25 JOD as revenue for himself. It should be noted that workers can usually fill 6 boxes a day, which means that the Shawish secures an additional 1.5 JOD from each worker. These agreements are made without the knowledge of the workers, since they have no direct contact with the employer and rely on the Shawish to secure them their working opportunities and their wages.

Another phenomena that was noted in the olive harvesting season is child exploitation. The Shawish tend to exploit children during the se ason as they force them to work long hours for an extremely low wage.

The Head Shawish:

Tamkeen only noted this phenomena in Mafraq. The field team observed the work of Um Mahmoud (an alias), a Syrian who was living in Mafraq before the war began. Um Mahmoud was able to capitalise on her extensive connections with both farmers in the northern and northeastern badia and Shawishes working in the area. She became a reference point for these Shawishes as employers began seeking her help to hire workers. Um Mahmoud then utilised her strong relationships with the Shawishes to provide the farmers with the necessary workers, and then maintained records of these transactions. Um Mahmoud was also responsible for providing these groups with transportation as she owns a fleet of five minibuses that collects workers, takes them to the farms, then returns them home.

As the Head Shawish, Um Mahmoud simultaenously maintains relationships with the employers and the other Shawishes on the other. Thus, it is Um Mohamad who manages the financial transactions with the employer and then provides the Shawish with his or her salary. She also deducts a sum of money from workers' wages in exchange for the bus service she provides.

Child Labour in the Agriculture sector

Figures from the 2016 National Child Labour Survey show that child labour rates increased in Jordan from 29,225 in 2007 to 69,661 in 2016, 64% of whom work in hazardous sectors, and 28% of them are under the age of 14.[22]

Jordan's Labour Law No. (8) of 1996 and its amendments prohibit the employment of children and juveniles, as article (73) prohibits the employment of a juvenile who has not completed the age of 16 in any way, while article (74) states that:

"It is not permissible to employ a juvenile who has not completed the age of 18 in hazardous, or exhausting occupations or those harmful to health. These occupations shall be specified by decisions issued by the Minister after consulting the competent official authorities."

This prohibition is in line with international standards as stipulated upon international conventions on the abolition of child labour, the most important of which is the United Nations Convention on the Rights of the Child of 1989, which came into force in 1990. Other conventions include the ILO conventions No. 138 on the Minimum Age of Employment[23], ILO Convention No. 182 on the Worst Forms of Child Labour[24], and ILO Forced Labour Convention No. 29.[25]

Despite these legislations, child labour is widespread in the agricultural sector. Indeed, Tamkeen noted that numerous working children are subject to various rights violations, including low wages, long working hours, and work injuries due to lack of adequate occupational safety and health conditions.

The field team also noted that many children are working with their families who are living in informal camps located inside farms. These families tend to work all together in exchange for utilities and lodging on the farm.

In one of the sessions that Tamkeen held, an attendee from an informal camp said:

"For several years, we have been asking international organizations and local institutions to provide us with a caravan that we would then allocate as a classroom for our children. Unfortunately, we did not receive any response. Since we cannot stay in formal camps or urban areas because we work in agriculture, we decided to stay in these informal farms, where our large families can work and secure their livelihoods.

22 National Survey Child Labour in Jordan 2016 https://bit.ly/2klmUpK
23 Minimum Age of Use Agreement No. 138 1987 https://bit.ly/3kBpCGH
24 ILO Convention on embargo The worst forms of child labour Number 182 for a year. 1999 https://bit.ly/3ZjGlgo
25 ILO Convention on Forced Labour Number 29 of the year. 1930 https://bit.ly/2QKgWcc

Tamkeen Comments on the 2021 Agriculture System

In May of 2021, the Jordanian government approved the System 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[26]. 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.

The system states that: "Working Hours for agricultural workers should be eight hours a day and not exceed forty eight hours a week for a period of 6 days. Workers should also be provided a break that should not be less than an hour that is divided into two intervals, based on working conditions."

However, the system allowed employers to extend the working hours during harvesting season or in emergencies to avoid any loss in crops. These workers should receive overtime though, as stipulated in the Labour Law.

Workers should also receive a weekly day off that is agreed upon between them and the employer. The Labour Law allowed employers and workers to reach an agreement whereby workers would get their combined days off within a two month period when necessary. The system also obliged employers to prepare an appropriate residence for workers living at the farms, based on the conditions that were agreed upon in the contract and at the expense of the employers.

Although Tamkeen welcomes the issuance of the system, it noted some gaps that it would like to highlight, the first of which is the absence of any articles that regulate working contracts, beside what was stipulated upon in paragraph (b). This omission results in the continuance of practices in which workers do not sign contracts and thus face difficulties claiming their rights since they cannot prove the contractual relationships with the employers. Instead, these workers are treated as subcontractors, who do not have the same protections that are guaranteed in either the labour law or the larger legal system.

26 The 2021 System to Regulate the Status of Agricultural Workers (in Arabic) https://bit.ly/3krr26T

Therefore, the system must explicitly mention written work contracts to ensure that workers are obliged to fulfill their contractual roles. Indeed, the Ministry of Labour could facilitate this process through the issuance of a unified contract form that is written in Arabic, English or a language that is understood by the worker. Three copies of the contract shall be signed, where the worker and the employer keep a copy each, while the MoL keeps the third . This procedure would later facilitate inspections arranged on agricultural entities. Tamkeen also recommends that the system include an article obliging employers to notify the MoL once they sign new contracts with employers. The notification shall include the number of new workers, their jobs, starting dates, and their wages.

Tamkeen also noted that the system did not include any articles that regulate the termination of defined or open contracts. Due to the characteristics of the agriculture sector, employers could unilaterally terminate contracts if the crops were damaged, or due to the inability of either parties to fulfill their roles. Thus, it is important that the system regulates these instances and ensures that workers have access to their rights if their contract was terminated, unless they commit a mistake that causes great losses for the employer.

Moreover, the system did not regulate the work of the shawish, even though they are very common in the sector, as highlighted above. It is important for the system to address this phenomena to ensure that neither workers nor employers are exploited by the Shawish. Thus, the system should include provisions that inspect the work of the Shawishes and allow them to be registered under the umbrella of the Ministry of Labour.

Tamkees hopes that the government addresses these important legal gaps, and that the system is correctly and comprehensively implemented to ensure that workers have access to their rights as outlined in both the labour law and the new system.

Conclusion and Recommendations

The continuous absence of social protection for agricultural workers and its current weak implementation have resulted in workers struggling to access their rights. Even though the s ystem to regulate agricultural workers was issued, workers continue to face issues regarding their access to decent work due to limited working opportunities and low wages. Both of these issues were exacerbated during the COVID-19 pandemic as workers were not included in government social protection programs and were left unable to secure their basic livelihoods .

Therefore, Tamkeen recommends the following:

1. Review the system of agricultural workers, with a focus on workers' rights, particularly in relation to the Shawish and child labour.
2. Build the capacity of labour inspectors in terms of mechanisms for inspecting specifically the agricultural sector, and the application of the system of agricultural workers.
3. The Government should collect sufficient and comprehensive data on the agriculture sector, through periodic field surveys that will then be utilised to develop a database on the sector.
4. Strengthen the capacity of social protection programs, including increasing their allocations and criteria to include all vulnerable segments of society.
5. Modify the definition of agricultural work, such that it is not restricted to work in an agricultural enterprise or agricultural land. Instead, the new definition should include all work that is predominantly agricultural, which would result in expanding protection for all workers in the sector.
6. 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.
7. Regulate the work of the Shawish and include it under governmental oversight due to their significant role within the sector. It is also important to find a mechanism that protects workers from being exploited by the Shawish, especially in terms of non-payment of wages.

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