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For legal aid and human rights

Work permits: Barriers and Difficulties for Refugees

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Introduction

Syrians Refugees began arriving to Jordan at the early stages of the outbreak of the crisis in their country in mid-March 2011. At the time, they arrived in small waves and were limited to Syrians living in areas bordering Jordan, especially the inhabitants of the city of Daraa. At the time, these refugees stayed with their Jordanian relatives or friends. As the fighting intensified though and further expanded across Syria, the asylum rates increased as more refugees began seeking safety in neighbouring countries (Jordan, Iraq, Lebanon, and Turkey). According to official figures by the UNHCR, more than 3 million Syrians left their countries. The data also indicates that 1.3 million of them are in Jordan based on the census that was conducted in 2016 by the General Statistics Department, though 127،373 are registered as refugees according to the latest data by the UNHCR.[1] Syrian refugees in Jordan are a largely urban population, with around 536,552 refugees living outside the country's refugee camps.[2] These refugees rent apartments and receive basic benefits and services together with the host communities, as well as look for jobs in the Jordanian Labor Market.

Prior to 2016, Syrian refugees almost exclusively found employment in Jordan's informal economy. In February of 2016 though, the Jordanian government agreed to allow a specific number of Syrians to work formally in the Labour Market within the open sectors. The pledge was made at the London donor conference (Supporting Syria and the Region Conference). Known as the Jordan Compact, the Kingdom of Jordan also pledged to waive the high work permits fees for Syrians, in return for concessionary rates on international loans, trade benefits with the European Union, and investments from donor countries to support the Jordanian economy.

The Jordan Response Plan (JRP) for the Syrian Crisis also called for collective action that would create economic opportunities and better jobs for Syrian refugees and Jordanians in vulnerable situations.

Currently, the issuance of work permits for Syrian refugees is one of the most important issues. Thus, it is essential to highlight the obstacles which workers are facing to issue these permits and address them. In turn, this would accelerate the process of legalising the work of Syrian refugees in Jordan and reduce the number of Syrians working in the informal economy.

Therefore, this paper fleshes out the procedures that workers must follow to issue a work permit. It highlights the most prominent labour decisions that the government enacted related to permits, namely, allowing Syrians to issue flexible work permits. It then focuses on the challenges faced by Syrians when issuing such permits in the labour directorates.

1 UNHCR, Operational Portal: Refugees Situations, Found at: https://data2.unhcr.org/en/situations/syria/location/36
2 Ibid

The paper is based on the data that was collected by Tamkeen's field team, which they collected through their observations and the services that they offer workers in the labour market. Moreover, the paper relied on relevant studies issued by international institutions working on economic empowerment projects for Syrians. It additionally benefited from the periodical reports issued by the Syrian Asylum Unit in the Ministry of Labour.

Legal framework for Syrians' work in Jordan

Syrian refugees are subject to Jordanian labour law in addition to the regulations, instructions and decisions issued by the Jordanian Ministry of Labour as their work is also linked to Article (12) of the amended Labour Law No. 26 of 2010.

Regarding the international conventions governing the work of refugees in Jordan, the country is committed to numerous international covenants and conventions that have addressed this matter, in particular the International Covenant on Civil and Political Rights, in addition to the International Covenant on Economic, Social and Cultural Rights; though it has not signed the 1951 Refugees Covenant and its protocol but signed a Memorandum of Understanding (MoU) with the UNHCR. Articles 8 and 9 of the MoU states that the two parties agree to grant refugees who are legally in Jordan the right to work for themselves or otherwise, if the laws and regulations in force allow this.[3]

The ICESCR for example stipulates in part III (article 7) that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

Remuneration which provides all workers, as a minimum, with:

1. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.
2. A decent living for themselves and their families in accordance with the provisions of the present Covenant.
3. Safe and healthy working conditions.
4. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.
5. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays". [4]

The work of Syrian refugees is also governed by the regulations and instructions that are issued by the Ministry of Labour (MoL), including the sector-based quota system, which allows pre-set numbers of foreign workers in specific sectors while limiting or closing off sectors where competition with Jordanians may be high. Closed sectors include sales, education, hairdressing, mechanics, and most professional sectors such as engineering and medicine, while open sectors include manufacturing, construction, and agriculture. [5]

3 Memorandum of understanding between Jordan and the United Nations High Commissioner for Refugees for the year 1998
4 Article 7 of the ICESCR https://www.ohchr.org/AR/ProfessionalInterest/Pages/CESCR.aspx
5 Ministry of Labour, Decision No (58/2020) on Closed and Open Sectors https://rb.gy/iianmb (In Arabic)

The Jordanian law also imposed a fine on the employer, ranging from 200-500 JD for each foreign worker who is recruited or employed in a closed sector, and it could be doubled to be between 500-1000 JODs for repeated offences. Meanwhile the worker him/herself is deported outside the country on the expense of the employer and he would not be allowed to return to the country for the subsequent 3 years as well. However, this aspect of the penalty is not applied on Syrian workers due to the ongoing war in their country. Instead, it was replaced with a pledge that is either signed by the worker (for flexible permits holders), or by the employer which states that a work permit will be issued for the worker, and that their status will be corrected, which includes the payment of any fines they might incurred throughout the period where they were working illegally.

Procedures for Syrian Refugees Work Permits

On February 4, 2016, the United Kingdom, Germany, Kuwait, Norway, and the United Nations hosted a Syria Donor Conference in London, where members of the international community came together and pledged their support for Syria and the region. The London Conference stipulated that Jordan would receive $1.7 billion in and concessional financial support for its National Response Plan for the Syrian Refugees Crisis, as well as pledges from the European Union of concessions that will simplify the rules of origin to export to the European market.

The plan, known as the Jordan Compact, and within the context of dwindling humanitarian funds and the continuation of the refugee crisis, placed job creation for Syrian refugees and members of the Jordanian host communities at the centre of its vision by providing Syrian refugees the chance to provide for themselves without dependency on aid as well as benefit the Jordanian economy by increasing its working force and through trade agreements signed with the EU.

The aim was to bring more resources and assistance to meet the immediate and longer-term needs of those affected by the crisis. Therefore, it witnessed donors pledging USD12 billion in new financing until 2020, plus USD40 million in new loans for Jordan. Furthermore, the World Bank negotiated ground-breaking concessional financing agreements with host countries of Syrian refugees as well.[6]

The core livelihoods commitments in the Compact agreement between the Government of Jordan and donors, launched at the Supporting Syria and the Region conference include:

1. The Government of Jordan will undertake the necessary administrative changes to allow Syrian refugees to apply for work permits both inside and outside of the zones, and provide work permits for up to 200,000 Syrian refugees.
2. The European Union (EU) will simplify its Rules of Origin, improving access to the EU market.
3. The Government of Jordan intends, as a pilot, to designate five development zones and provide these with maximum incentives under the new investment law.
4. Syrian refugees will be allowed to formalise their existing businesses and to set up new, tax-generating businesses.
5. The Government of Jordan will provide for a specific percentage of Syrian involvement in municipal works through private sector employment on a contract basis[7]

6 International Rescue Committee, In Search of Work Creating Jobs for Syrian Refugees: A Case Study of the Jordan Compact, 2017

7 The Jordan Compact: A New Holistic Approach between the Hashemite Kingdom of Jordan and the International Community to deal with the Syrian Refugee Crisis. Available at: https://bit.ly/2J5g7uC

The Jordanian Government explained that in relation to its pledge of 200,000 permits for Syrians that around 50,000 of them will be created in sectors typically shunned by Jordanians, like agriculture and construction. The rest on the other hand would be created in Jordan's Special Economic Zones (SEZs) and the E.U. would remove tariff barriers for goods manufactured in the zones to stimulate new investment and new jobs.[8]

Following the conference, the government, through the Ministry of Labor, decided on enacting a series of measures that contribute to the implementation of its undertakings during the conference. These measures included amending several regulations and instructions related to the issuance of work permits for Syrians. Thus, Syrians were exempted from the fees related to the issuance of work permits, which sits at 520 JODs[9]. In 2017, they were allowed to issue flexible work permits in the specific sectors of agriculture and construction that would allow them to freely move between employers.

In order to obtain a work permit with an employer (as of this writing)[10], the employer must submit the application for the permit for the Syrian worker, so he could work in an open sector. The procedures to issue the permit include:

1. The employer applies for a one-year work permit for the Syrian refugee worker at the Directorate of Labour to which they are affiliated.
2. The employer usually must pay expensive fees to issue work permits for non-Jordanians. However, in the case of Syrians, they have been exempted to pay these fees for a specific period.[11]
3. The employer has to submit with their application a copy of the commercial registrar, a valid occupation license for his business, and a record issued by the Social Security Corporation confirming that the business is registered under its umbrella. In case this is the first permit issued by the Syrian, the employer needs to also provide a bank or judicial guarantor.[12] The same documents are requested when the employer wishes to renew the permit, with the added requirement of a COVID-19 test; the fees of which they are exempt from as well.
4. In terms of the Syrian worker, s/he needs to submit a copy of their Ministry of Interior (MoI) card, as well as a picture of themselves. Moreover, two signed copies of the contract should be submitted, and the fees of 10 JODs should be paid.

8 Refugees Deeply, The Compact Experiment: Push for Refugee Jobs Confronts Reality of Jordan and Lebanon. Available at: https://bit.ly/3kuE03D

9 This fee was imposed on the issuance of work permits for all non-Jordanian workers, except Syrians till 22/9/2019 when the decision 291/2019 was issued which allowed for non-Jordanian workers to issue flexible work permits as well.

10 2/2/2021.

11 The first decision to waiver these fees was in March 2016, for a period of 3 month. It has been renewed 10 times since, the last of which was till 31/12/2021.

12 The list of all documents required to issue a work permit are found on this link: https://bit.ly/2J4bCfL (In Arabic)

In terms of flexible work permits, agricultural permits are issued by the Cooperatives on behalf of Syrian workers. Thus, these permits eliminate the requirement to link the worker to one employer. This provision is designed to meet the demand for seasonal employment in the agricultural sector, where the worker can earn the highest income if they can move from one employer to another easily during the seasons according to the harvest time for each crop. As for construction, workers can issue a flexible permit from the trade union or other cooperative societies in the Kingdom that are authorized to issue these permits. These permits allow the Syrian worker to move from one employer to another, especially when those working on small projects that do not last more than one year. In such cases and if the project concluded prior to the expiry of the permit, then workers are allowed to work with another employer until the expiry of that permit.

On the 8th of February 2017, work permits for Syrians residing in camps began to be issued in coordination with the Directorate of Syrian Refugee Affairs - Camp Management, UNHCR and the International Labour Organization (ILO), as operation and coordination offices were set up inside the Zaatari and Azraq camps for the purpose of issuing these permits.

Furthermore, the Ministry of Labour began issuing temporary work permits for a period less than 6 months that would be in accordance with the Syrian Employment Program "Work for Pay". It also issued a new list of open sectors categories that would allow Syrians to work in the manufacturing sector starting from 14 June 2017, which would provide them more employment opportunities in the industrial sector on one hand and increase the number of factories that could benefit from the decision to facilitate the rules of importation to the EU as set by the Jordan Compact.

As a result of these facilitations, 215,678 permits were issued by Syrians in the 4-year period between 2016-2020. These permits were issued by Syrians residing inside and outside camps. These permits are disaggregated annually as follows:

Year	Number of WPs issued
2016	36,790[13]
2017	46,717[14]
2018	45.649[15]
2019	47,766[16]
2020	38,756[17]
Total	215,678

13 Report by the Directorate of Syrian Refugee Affairs - MoL (2017): https://rb.gy/33707p.
14 Ibid
15 Report by the Directorate of Syrian Refugee Affairs - MoL (2019) https://rb.gy/wy7dp0.
16 Report by the Directorate of Syrian Refugee Affairs – MoL (2020) https://rb.gy/qfbs1q
17 Report by the Directorate of Syrian Refugee Affairs – MoL (2021) https://data2.unhcr.org/en/documents/details/84502

However, through its work with Syrians, Tamkeen noted that the number of permits issued for Syrians does not really reflect the number of Syrians currently employed in the labour market for the following reasons:[18]

- The Multiple entry visa issued for Syrian refugees who are not investors but have first degree relatives in Jordan requires them to have a work permit, which results in Syrians who want to travel to issue flexible work permits. Thus, they usually issue agricultural flexible work permits since they cost less than construction work permits, which requires the worker to issue an insurance policy as well. Tamkeen received numerous requests by Syrians, including housewives, who are not employed in the agriculture sector but wish to be provided with legal or administrative aid to issue an agricultural flexible work permits. They explained that they needed these permits for traveling purposes or to be able to go do Umrah in Saudi Arabia and then return to Jordan.
- Many Syrians who work in the informal economy like those working in the sale of scrap, home cooking, the sale of groceries, etc do not have work permits and are thus not included in any statistics on Syrian labour participation in the Jordanian Labour Market.
- There are some banks that request a valid work permit in lieu of a passport to open bank accounts for Syrians, in addition to their MoL ID.
- Many Syrians work in several closed sectors. The most common of which as encountered by Tamkeen are:
  - ► The work in buying and selling, especially in small groceries, supermarkets and malls that sell various types of merchandise.
  - ► The work of mechanics and repairs of vehicles.
  - ► Haircutting and Barbershops
  - ► Teaching in private schools.
  - ► Medical work (in small private health clinics and pharmacies in Evening Shifts where there are no inspections from the labor offices).
  - ► Guarding.
  - ► Electrical Work.
  - ► Driving.
- There are workers who work in loading and offloading of goods in the Central Market who cannot issue work permits as they do not have an employer.
- There are employers who wish to issue work permits for Syrians but cannot be due to the ratio implemented regarding the employment of Jordanians and non-Jordanians, which vary from one sector to another.
- Many Syrians work in a different sector than the one shown on their permit like those who work in retail even though they issued an agricultural work permit.

18 Based on Tamkeen Field Work

On the other hand, the above numbers do not represent the size Syrian workers in the Jordanian labour market because the number of permits also includes those that were renewed as part of the total as well. Thus, a single worker could be counted several times in the total based on the number of times s/he renewed their permits. Therefore, the number above would be a false indicator to assess the participation rate of Syrians in the market or the availability of work opportunities.

Moreover, many refugees issued work permits to help them exit and later return to camps, especially women. According to official figures, 51,037 permits were issued for refugees residing in camps in the period between February 2017 and January 2020.[19]

It was noted though that despite procedures and facilitations that the Jordanian government announced to facilitate Syrian refugees work, many of them are still facing numerous challenges and violations in the labour market. Some of these challenges are legislative due to the constant changes in relation to the process of issuing a work permit which resulted in further complications on some occasions, or at least in delays with the issuance of the permits. Below, Tamkeen highlights some of the challenges it has experienced in the field.

19 Report by the Directorate of Syrian Refugee Affairs – MoL (2021) https://data2.unhcr.org/en/documents/details/84502

Challenges related to Flexible Work Permits

It should be first noted that Syrian refugees prefer the agricultural and construction flexible work permits, which is evident by the number of people who have issued them. However, there are still challenges related to them, which include:

- The absence of a contractual relationship between the employers and workers who have issued flexible work permits has resulted in difficulties for the worker when s/he is faced with violations or would like to seek his rights.
- The non- inclusion of construction and agricultural workers under the umbrella of Social Security is another serious issue. These workers are thus excluded from any social protection programs offered by the SSC including unemployment, old age pension or death compensations (for construction workers), in addition for maternity leave and work injury compensation (for agricultural workers.)

Contextually, it was noted that the government made several confusing decisions in recent years. The first of these decisions was in late 2019 when it was decided that permits for non-Jordanian workers will not be renewed. The decision also covered Syrians even though the exemption period for Syrians was not over. However, it excluded those wishing to renew their flexible work permits in the agriculture or construction sectors. At the same time, the government also decided to expand the list of closed sectors for non-Jordanians. Under Resolution 19/2019, the updated list consisted of 28 professions. Moreover, the government introduced Technician Permits, whereby Syrians can issue a permit in a closed sector but must obtain the approval of the Minister of Labour, and it costs 2,500 JODs as stipulated in the system for "Permit Fees for Non-Jordanians of 2019". [20] In 2020 though, the government extended the exemption on work permit fees for Syrians till the end of that year. The decision though was not officially announced till the end of January 2020, which resulted in confusion and fear among workers.

In December of that year, the government announced another decision, imposing fines on Syrian workers based on the provision of article 6 in the System No (142) for 2019 on Work Permit Fees for non-Jordanian workers. The article states that:

""A delay fine of 50% of the value of the work permit fee is collected from the employer if the work permit expires and is not renewed within 90 days of its expiry date."

20 System No (142) for 2019 on Work Permit Fees for non-Jordanian workers

However, the Council of Ministers issued a subsequent decision exempting 80% of the value of the fine in case the worker wishes to stay in Jordan. According to the decision, the exemption applies on workers' whose permits expired more than 90 days ago as of January 31, 2021. [21] As a result of the decision, Syrian workers whose permits were expired for more than 90 days incurred a fine of 200 JODs.

In February2021, Labour Directorates in Irbid, Zarqa, Azraq, Mafraq, and Deir Ala) began imposing a late fine on Syrian workers who wish to issue work permits for the first time for every year in which the worker did not issue a permit since their date of entry to Jordan, provided that he reached the legal age to work. Thus, the directorates imposed a fine of 10 JODs on each year the worker did not issue a work permit for all the years he was in Jordan or all the years he was in Jordan after he reached the age of 18.

The directorates based their decision on article 4 of Instructions on the Conditions and Procedures for the Employment of Syrian workers for 2020, which states:

"The start date of the work permit for the worker who obtains their permit for the first time shall be based on either of the following dates:

1. The date in which the worker entered the Hashemite Kingdom of Jordan as stipulated upon on their MoI ID.
2. The date in which the Labour Directorate approved the issuance of the work permit for workers whose date of entry into Jordan is not clear, as proved by the Department of Residency and Borders.[22]

However, Tamkeen believes that this set of decisions negatively affects the efforts made to regularise and facilitate the work of Syrians in Jordan for the following reasons:

- Not all Syrians who entered Jordan wanted to work, especially in the early stages of the Asylum Crisis when their main focus was finding a safe haven.
- Syrians, particularly asylum seekers, were not allowed to work in Jordan until after the Jordan Compact in 2016. Even after the compact, not all aspects of Syrians work in Jordan was regulated, especially those who were working for an employer. Later, this aspect was addressed with the allowance to issue flexible work permits. However, the fines imposed on workers in the above decision are charged since the Syrians' date of entry to Jordan, which for some was at the start of the crisis in 2011.
- The UNHCR registration certificate was a prerequisite for the issuance and renewal of work permits until 2019. Consequently, many Syrians were not able to issue work permits since only 655,000 Syrians are registered, [23] while many sources indicate that the actual number of Syrians in Jordan is around 1,300,000.

21 The Prime Ministry Website, The Council of Ministers approves exemptions from fines for non-renewal of work permits for non-Jordanians, published on 31/12/2020. https://shorturl.me/5yQgITI

22 Instructions on the Conditions and Procedures for the Employment of Syrian workers for 2020, published on 31\12\2020 on the official gazette. https://shorturl.me/HG0eZC

23 UNHCR Jordan https://bit.ly/3pLKeZw:

Moreover, a range of challenges persist at the official level in relation to the issuance of flexible work permits. They include:

- The lengthy period required to issue flexible construction permits in Amman, which could expose workers to possible accountability by the inspection campaigns conducted by the MoL. According to our field experience, the issuance of these permits might take one to three and a half months. In 2020, this period was even extended due to the curfew that was imposed to curtail the spread of COVID-19.
- **The issuance of the insurance policy in the construction sector:** When the flexible construction permit is renewed, the insurance policy that is issued with it is valid for a year while the validity of the permit itself depends on the date of the issuance of the first permit. The difference in validity between these two documents causes issues for workers in cases where their permit expires but the policy is still valid. In such cases, the worker is forced to pay 45 JODs again, which is the cost of renewing the policy.
- The lack of coordination between the labour directorates in the governorates and the Ministry of Labour in Amman in terms of the decisions issued by the ministry leads to various issues. An example of that is when some directorates refrained from issuing work permits for workers employed as sewers, even though it is an open profession.

Conclusion and recommendations

The legal participation of Syrians in the labour market is an important issue for the Jordanian government. Indeed, the government has affirmed that Syrians must issue work permits, since they would protect the rights of both employers and workers. Therefore, it is important that efforts to increase the awareness of workers about these permits are continued. Moreover, concerns of Syrians who are still hesitant to issue these permits should be addressed, particularly those regarding their false effect on their refugee status with the UNHCR.

This false information thus should be countered by the relevant stakeholders, which should encourage Syrians to issue work permits. Finally, it is imperative to address the challenges that Syrians are facing when issuing these permits. Therefore, Tamkeen recommends the following:

1. Establish a national framework or laws governing the work of refugees and asylum-seekers in Jordan.
2. Inclusion of Syrian workers who have issued flexible work permits under the umbrella of social security.
3. Strengthen the inspection mechanism implemented by the Ministry of Labour to ensure that working and living conditions for workers are compliant with international standards.
4. Ensure that the employment and training opportunities available to Syrians are in line with their skills and experience in addition to their compatibility with the needs of the Jordanian market and open/closed sector regulations.
5. Increase the level of participation of Syrian workers by identifying obstacles at the official and legislative level that prevent them from reaching the market and facilitating access to the labor market.
6. Create a database for Syrians that contains their relevant labour data, including the sectors where they work, in addition to their workplace and residence, and employer information if available. The database should also contain updated information about work permits, in terms of the number of permits issued, disaggregated based on whether these permits are new or renewed, as well as those that were not renewed.
7. The necessity of conducting research and studies on the conditions, needs and challenges facing the Jordanian Labour Market and the impact of Syrian workers on it.
8. The establishment of guidelines to ensure the fulfillment of the pledges made by the Jordanian government in the Jordan Compact.

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