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Conditional Freedom

From the Kafala System to Flexible Work Permits – Transformations in the Regulation of Migrant Labour in Jordan

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For decades, the Kafala system has constituted one of the most prominent regulatory frameworks governing migrant labour in the region, carrying with it profound imbalances in the power relationship between workers and employers. With the growing discourse around flexible work permits as a reform-oriented alternative, this study offers an analytical reading of the trajectory of change in Jordan: are we witnessing a genuine dismantling of the Kafala system, or merely its reproduction through new legal instruments?

The study is grounded in historical and legal analysis and examines the gap between reformist rhetoric and the practical reality of migrant workers' rights.

The Emergence of the Kafala System

The kafala system constitutes one of the legal and regulatory frameworks used to govern the relationship between employers and migrant workers. Under this system, a migrant worker is formally linked to a specific employer, commonly referred to as the sponsor, who assumes legal responsibility for the worker's immigration status and residency.

Despite its widespread application, historical accounts concerning the origins and development of the kafala system vary. Some studies suggest that British authorities were the first to institutionalize the concept of kafala in the Arabian Peninsula during the period of British colonial influence. According to these accounts, the system began to be applied as an official regulatory mechanism prior to the discovery of oil in 1928, particularly to organize the labor of foreign pearl divers in Bahrain, at a time when modern borders and passport regimes had not yet been established.

From a linguistic perspective, kafala denotes obligation and inclusion, and its root conveys the notion of one thing encompassing or assuming responsibility for another. According to its etymological meaning, the term kafala in the Arabic language signifies both guarantee and care, encompassing the acts of assuming responsibility and providing protection. The roots of the concept of kafala in Arab societies can be traced back to an ancient Bedouin tradition under which protection and care were granted to individuals who were strangers to the tribe providing the sponsorship.[1] In this cultural context, the Arabic linguistic roots of the term kafala—guarantee and care—were used to express hospitality and the ethical treatment of outsiders.

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In contemporary usage, however, the term has come to describe the relationship between employers (sponsors) and migrant workers. Under this system, the migrant worker becomes subject to absolute dependency on the employer for the duration of the employment contract and, in many cases, even after its termination, until the worker departs the country of employment. The system is characterized by the employer's control over the worker's movement, as the sponsor may modify the terms of the employment contract, deport the worker without prior notice, and impose re-entry bans preventing the worker from returning to the country.

The notion of guarantee requires that the sponsor possess authority that exceeds that of the sponsored individual, while care and protection imply a responsibility borne by the sponsor toward the sponsored person. This combination reflects an inherent juxtaposition between the principle of unequal authority between two parties and the principle of responsibility for care and protection owed by the party that holds such authority toward the party that does not.[2]

The kafala system constitutes the primary framework for managing labor migration and affects approximately 25 million migrant workers. The system was established in West Asian countries around 1950 and continues to operate in the member states of the Gulf Cooperation Council[3]. Although the kafala system is not formally stipulated in the legislation of either Jordan or Lebanon, it is nevertheless applied in practice.

Since the early 1980s, the sponsorship-based relationship in the Gulf and Middle Eastern countries has been subjected to sharp criticism by researchers and intellectuals. Among them, sociologist Baqer Al-Najjar, by way of

example, described the system as a form of wage slavery, drawing comparisons between kafala and the conditions that prevailed in the pearl-diving industry in the Gulf. Public discourse initially confined its criticism of the system to viewing it as a mechanism for recruiting foreign labor that is frequently misused by employers, while emphasizing the importance of rigorous law enforcement and effective labor-market oversight as means of mitigating the negative consequences arising from kafala-related practices.

Interest in the issue of kafala began to assume a new dimension during the first decade of the new millennium as a result of several factors, most notably the increasing international pressure on Gulf3 and Middle Eastern states concerning the rights of migrant workers, as

2 الكفالة: التبعية والإقصاء في مجتمعات الخليج العربية (gulfpolicies.org)
3 مركز الخليج لسياسات التنمية - Gulf Centre for Development Policies

well as the growing linkage between kafala practices and concepts such as forced labor and human trafficking, and the various forms through which these phenomena manifest across different regions of the world [4].

Accounts regarding the historical origins of the system vary. It is widely considered that the concept of kafala emerged from the pearl-diving trade, which constituted the economic foundation of the Gulf region prior to the discovery of oil. During this period, ship owners customarily "sponsored" pearl divers each season by employing them in diving activities in exchange for covering their families' living expenses, the cost of which was deducted from the divers' wages at the end of the season. As a result, pearl divers commonly lived within a continuous cycle of indebtedness.

The concept of kafala also dates back to an earlier period in Gulf history, when the overall population—particularly the number of foreign residents—was significantly smaller. At that time, local residents assumed financial and legal responsibility for newly arrived foreigners, including liability for the consequences of their actions. Accordingly, when a sponsored individual committed an offense under the kafala system, the sponsor bore responsibility for that offense.

Azfar Khan, a migration specialist at the International Organization for Migration, explains that the kafala system was intended to function as "a good system that holds citizens responsible for caring for non-citizens, but has now become an arbitrary tool of oppression and exploitation." Despite the fact that sponsors remain legally responsible for migrant workers under their sponsorship, they rarely face legal accountability when they neglect or disregard this legal responsibility to provide care and protection for migrant workers [5].

In light of the realities of the contemporary labor market, a system that was established within small communities reliant on personal networks can no longer be relied upon to regulate or protect migration. Nor can individuals be entrusted with ensuring the safety and welfare of those under their sponsorship, particularly given the existence of direct economic interests. Sponsors often seek to minimize labor costs, deprive workers of their rights, and compel them to work longer hours. In the Gulf and Middle Eastern context, the majority of migrant workers are sponsored by companies rather than individuals, with each company permitted to sponsor dozens—and in some cases hundreds—of migrant workers, often without meaningful concern for their working conditions or the wages paid to them.[6]

4 مركز الخليج لسياسات التنمية - Gulf Centre for Development Policies
5 قراءة في نظام الكفالة وتقاطعاته مع التنمية الحديثة - Migrant Rights (migrant-rights.org)
6 قراءة في نظام الكفالة وتقاطعاته مع التنمية الحديثة - Migrant Rights (migrant-rights.org)

Historically, the kafala system is closely linked to the pearl industry. Pearl diving has long been known among Gulf societies as an adornment, a craft, and a source of livelihood. The Arabian Gulf region became renowned for pearl diving, a profession that has existed in the region for more than four thousand years, during which pearls were extracted from the depths of the sea. Over time, pearl diving developed into an industry of considerable importance to the local economy and, alongside trade and fishing, constituted a principal source of income. Despite the harsh conditions and significant suffering endured by migrant workers in this vital sector, Gulf societies were able to benefit from this important natural resource during that historical period and to lay the foundational building blocks upon which the modern state was later established.[7]

The old city of Muharraq served as the capital of Bahrain between 1810 and 1923, a period during which the pearl economy flourished, reflecting the island's position as the second-largest island in the Kingdom of Bahrain. Over the centuries, Muharraq Island was also regarded as the pearl capital of the Arabian Gulf. In 1877, pearl exports accounted for approximately three-quarters of Bahrain's total exports, the majority of which were directed to Bombay, Iran, and Turkey, with Europe subsequently emerging as one of the most significant direct markets for Bahraini pearl exports.

During the annual pearl-diving season in the Kingdom of Bahrain, economic activity expanded into a collective societal endeavor. This included pearl merchants, divers, ship captains, shipbuilders, timber merchants, and suppliers of general provisions. Nearly everyone on Muharraq Island practiced a craft or profession directly or indirectly connected to the pearl economy. The pearl industry reached its peak between 1911 and 1912. However, subsequent developments led to its decline, as the world experienced a series of crises, including wars, financial collapse, the emergence of inexpensive artificial pearls, and the Wall Street stock market crash, together with the resulting contraction of luxury markets.

In addition, the pearl economy witnessed numerous protests by divers in response to deteriorating living and working conditions and the loss of their sources of livelihood. These developments contributed to the decline of pearl diving and trade during the 1930s, culminating in the complete collapse of the industry by 1950.[8]

7 الرئيسية | وكالة أنباء الإمارات.
8 تاريخ صيد اللؤلؤ - مسار اللؤلؤ.

Over time, the pearl economy declined almost concurrently with the discovery of oil and natural gas in Bahrain, a development that led to the diminishing role of the city of Muharraq and the corresponding expansion of the importance and role of Manama, located near the port on Bahrain's main island. However, the rapid growth of Bahrain's new capital, Manama, enabled Muharraq to preserve much of its identity and overall living environment. Despite the modern urban expansion witnessed in the region, large areas of the city of Muharraq have managed to retain their architectural fabric, street patterns, and intersections as they existed during the pearl-diving era. The city continues to be characterized by a network of narrow alleyways, imbued with distinctive features and symbolic expressions of a deep-rooted historical identity.[9]

The formal regulation of pearl diving by British authorities in the Gulf, together with the crystallization of sponsorship practices, positioned Bahrain as the point of origin for the development of the kafala system in the region. This was due to the fact that Bahrain was the first Gulf territory in which the British extended their influence over local society, amid competition with other European empires at the beginning of the twentieth century. These dynamics prompted Lord Curzon, then Viceroy of India, to pursue the so-called "Forward Policy," which called for the expansion of British imperial influence in the Gulf.

With the appointment of the first British political agent in Bahrain in 1904, British authorities began to intervene directly in the administration of the country's internal affairs. They subsequently expanded their local influence and worked to establish a modern bureaucratic apparatus to manage and consolidate this expansion. Prior to this period, British involvement had been largely limited to regulating the external relations of Gulf rulers.

British authorities compelled the ruler at the time to relinquish jurisdiction and grant them sovereignty over all individuals classified as "foreigners" in the country. As a result, the population residing in Bahrain was classified either as "foreigners" or "locals," with foreigners placed under British rule and sovereignty, and local subjects remaining under the authority of the local ruler. This system was legally codified through the Bahrain Order in Council of 1913 (BOIC), which was formally brought into force following the end of the First World War in 1919, marking the beginning of Bahrain's modern legal bureaucracy. The BOIC established courts presided over by British officers who were responsible for adjudicating legal cases involving foreigners, in addition to a mixed court designated to hear cases involving both foreigners and local residents.[10]

9 تاريخ صيد اللؤلؤ - مسار اللؤلؤ.

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The principle of the Order in Council (OIC) used to regulate governance over those designated as "foreigners" in Bahrain was not entirely new to the Gulf region. For example, an Order in Council relating to Muscat had been issued as early as 1867. However, these earlier Orders applied exclusively to British subjects in the Gulf, whose numbers were extremely limited and did not exceed a few dozen individuals. They were typically Indian merchants who resided in the region for specific periods of the year, particularly during the pearl-diving season. By contrast, the new interpretation of the Order in Council in Bahrain, which expanded its jurisdiction to encompass all "foreigners," suddenly increased the number of individuals subject to the Order to tens of thousands of the island's residents. Although many of the individuals and families included under this expanded definition had lived in the region for multiple generations, British authorities classified them as "foreigners" under British sovereignty as a means of extending and consolidating their influence in the region. In doing so, the British introduced a new legal and political system and attempted to impose it upon demographic and social relations that had existed in the region for decades, and in some cases centuries, prior to the arrival of British forces. This transformation carried significant consequences.[11] These issues became increasingly pressing with the demarcation of borders in the region and the implementation of passport systems and designated border crossings associated with these newly defined boundaries. Official travel documents—such as passports, entry visas, and exit visas—became increasingly recognized as essential instruments throughout the Gulf and the Arabian Peninsula during the 1920s. During this same period, the first nationality laws in the region began to be introduced, further elevating the importance of regulating mobility across these borders.

British officials assumed responsibility for issuing entry visas to Bahrain, as travelers seeking entry to the island were required to have their passports approved by the British political agent in Bahrain in addition to obtaining an entry visa. A passport checkpoint was established for the first time in 1929, and the state began issuing its own passports in 1930. Nationals of other Gulf territories under British protection, as well as those from Saudi Arabia, were permitted to enter Bahrain without entry visas, provided they possessed valid travel documents.[12]

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This new "international" system came into effect prior to the discovery of oil in the Arabian Peninsula and was applied to populations that were unaccustomed to the existence of borders, legal procedures, and bureaucratic controls within their territories. Historically, people had moved freely along the shores of the Gulf and across the Arabian Peninsula, forming deep familial and cultural ties throughout the region. Consequently, local populations were required to adapt to this new system, just as the system itself had to avoid, as far as possible, provoking disruptions to existing demographic and social relations in the region.

It was inevitable that problems would emerge rapidly during the early stages of this system, as it encompassed a large number of governments and authorities, each issuing its own documents and regulating mobility across its territory according to distinct procedures. Ports in the Gulf where British presence was relatively weak—such as Dubai—soon became hubs attracting individuals seeking to obtain visas and passports with relative ease, providing a means of circumventing British controls. As a result, instances of "irregular" movement and document forgery quickly emerged as issues of concern for British authorities.[13]

The solution developed by the British was to apply the principle of sponsorship to pearl divers arriving in Bahrain, paving the way for the first modern application of the kafala system in the Gulf. British adviser Charles Belgrave announced the new law in December 1928, followed shortly thereafter by new passport regulations issued in January 1929, which stipulated that each ship captain (nokhada) was legally responsible for all "foreigners" on board his vessel and was required to report their number, names, and valid travel permits to customs officials. Only divers registered in the diving registers issued by the Government of Bahrain were permitted to disembark on Bahraini territory. If any divers were discovered to have fled from a vessel upon its departure from port, the ship's captain would be held responsible, and his boats would be confiscated.

According to the British resident, the primary objective of this system was "to control arrivals and departures and to prevent undesirable persons from entering Bahrain." The system incorporated all the legal requirements that came to characterize the modern kafala system, including the presence of a sponsor (in this case, the ship captain) who assumed responsibility for the "foreign" divers on board his vessel; a financial deposit paid by the captain as a guarantee for the removal of the migrant; an entry visa; a valid work permit (in this case, diving permits); and the requirement of an exit visa. Most importantly,

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these measures linked the sponsorship of the migrant worker within Bahrain's territory—who in this context were "foreign" pearl divers—to the continued presence of the sponsor (nokhada). Accordingly, the ship captain was required to sponsor the divers on his vessel and guarantee their departure from Bahrain at the end of the diving season without any "misconduct," as defined by the official authorities.

In this manner, the modern kafala system was born in the Gulf. British authorities initially applied it to long-standing demographic, social, and productive relations in the region, which increasingly became a source of concern as the principles of statehood and territorial borders began to take shape. These relations were subsequently regulated in Bahrain through the development and application of the kafala system.[14]

Accordingly, the kafala system relating to the regulation of mobile labor emerged fundamentally with the rise of the principles of statehood and territorial borders and was applied to pre-existing demographic and productive relations in the Gulf region, particularly within the pearl-diving industry. However, with the emergence of the oil industry in Bahrain in 1932, entirely new labor relations quickly took shape in the region. British authorities moved to open the door to the inflow of migrant labor to the Gulf from areas that had not historically supplied the region with large numbers of workers.

It was therefore unsurprising that British authorities turned to recruiting labor from regions under British colonial influence, most notably the Indian subcontinent, which had a long history of supplying migrant labor to other territories under British rule. The kafala system that had been developed and applied to workers in the pearl-diving industry was subsequently adapted and extended to regulate the growing migrant workforce employed in the oil sector, particularly workers arriving from the Indian subcontinent.[15]

Financial guarantee requirements imposed by the sponsor, work permits, exit visas, and No Objection Certificates (NOCs) were soon adopted and applied extensively to all migrant workers arriving in Bahrain, becoming an integral component of the island's bureaucratic migration practices. Beginning in the 1930s, and in response to growing concerns over increasing "irregular" migration from India, British authorities required every foreign employee coming to work in Bahrain—whether in the oil company or elsewhere—to obtain a No Objection Certificate from the British political agent in Bahrain prior to applying for an entry visa from the Bahraini authorities. In order to secure this certificate, the employer or sponsor was required to deposit a sum of 60 rupees, which would be refunded upon

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confirmation that the sponsored worker had departed the country. This system was applied to all migrant workers arriving in Bahrain from territories outside the sovereignty of Gulf rulers, including Western workers and employees of the oil company. By the time of the Second World War, and in order to impose greater control over population movements during this sensitive period, British authorities also introduced the requirement of exit visas for all individuals traveling to and from Bahrain.[16]

The spread of the kafala system to the rest of the Gulf, including the State of Kuwait, followed soon thereafter. British authorities took the kafala system they had adopted to control migrant workers in Bahrain and began applying it to other parts of the Gulf under British colonial influence. In 1915, an Order in Council relating to Muscat was issued, modeled on the Bahrain Order in Council. This was followed by the Kuwait Order in Council in 1925, the Qatar Order in Council in 1938, and finally the Trucial States Order in Council in 1946 (covering what is now the United Arab Emirates). Although all of these Orders were based on the Bahrain model and established the principle of British sovereignty over those designated as "foreigners" in these territories, a fundamental distinction emerged. Unlike Bahrain—where British authorities limited the sovereignty of the local ruler to those they classified as "locals"—rulers in the other territories succeeded in defining their sovereignty to encompass all Muslims, with the exception of Indian and, later, Pakistani nationals. Correspondingly, British sovereignty was confined to non-Muslims, Indians, and Pakistanis.

As a result, the number of individuals subject to the Orders in Council in the pre-oil period remained very limited in these territories compared to Bahrain, where nearly half of the island's population fell under British sovereignty due to the expansive definition of "foreigner." When the Kuwait Order in Council was issued in 1925, Kuwait was the second most populous city on the Arabian Gulf coast after Bahrain, yet British sovereignty extended to only three minor Indian merchants residing there at the time. With the onset of the oil era in Kuwait, however, these figures increased rapidly. By 1945, oil had been discovered and the construction of company facilities had begun—although exports had not yet commenced—and the number of individuals under British sovereignty had risen to 225. With the commencement of oil exports the following year, this number increased to 528, and then to 1,651 by 1947, continuing to rise steadily in the years that followed.

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By contrast, Muscat, which historically maintained stronger demographic ties with the Indian subcontinent than Kuwait, had only 500 Indian nationals under British sovereignty until the 1950s, the majority of whom were traders. This situation did not change until the discovery of oil there in the 1960s.[17]

The number of migrant workers subject to British sovereignty continued to increase steadily with the expansion of oil exports. By 1953, approximately 3,000 Indians and 2,000 Pakistanis were residing in Kuwait under British sovereignty, primarily employed by the Kuwait Oil Company (KOC) and in projects associated with the city's "development plan." As was the case in Bahrain, British authorities grew increasingly concerned about this expanding population under their judicial authority, and issues of monitoring and security control became pressing, particularly following the outbreak of labor unrest. In 1948, Indian and Pakistani workers at the oil company carried out a large-scale strike, followed by another major strike involving the same nationalities in 1953.

In response, a series of laws were issued beginning in 1947, closely resembling those used to regulate the migration of "foreigners" in Bahrain. A passport regulation was issued that same year, and the British political agency began issuing travel visas to incoming migrants on behalf of the Government of Kuwait. The first Kuwaiti nationality law was enacted in 1948, followed by a notice issued by the Director of the Passport Department in the subsequent year requiring all foreigners to register with the department. In 1952, regulations governing the issuance of residence permits for migrant workers were promulgated, obliging individuals subject to British sovereignty to obtain residence permits from the British political agent.[18]

By contrast, labor classification practices developed by the oil company in Bahrain were transferred to Kuwait. This was not unexpected, given the close coordination between the British political agencies in Kuwait and Bahrain. The preoccupation with classifying workers according to nationality, race, social class, and marital status persisted, and lengthy, regular reports on this matter were submitted by oil company officials and the political agency. As was the case in Bahrain, such reports became particularly active following the outbreak of strikes and other "problems" initiated by workers. These reports included detailed and precise criteria concerning the size and type of housing allocated to each group of workers, based on the classifications outlined above."Relative comparisons with the conditions of workers in other oil companies in the region—particularly the Bahrain oil company—

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played a central role in the development of these standards." Following the strike by Indian and Pakistani workers in August 1948, the British Foreign Office dispatched a labor expert to Kuwait in February 1949 to assess the conditions of workers employed by the oil company. The report indicated that the number of workers employed by the company had increased from 1,900 workers at the beginning of 1947 to more than 18,000 workers by January 1949. During the same period, the number of Indian workers employed by the company rose from 236 to more than 4,000.

Mirroring the reporting pattern observed in Bahrain, a significant portion of the report focused on classifying workers according to the following categories of nationality and race: British, American, Indian, Pakistani, Arab, and "local residents" (i.e., citizens). Particular attention was given to the conditions of Indian and Pakistani workers, over whom Britain exercised sovereignty. These workers were further classified according to religion, occupational skill, and marital status. Housing conditions allocated to each of these labor categories received special scrutiny from the expert, whose attention was drawn in particular to the "village" constructed for Arab workers, which he described as being exceptionally poor.[19]

The issue of employing Kuwaitis and Arabs in comparison to Pakistanis and Indians became a point of contention between the ruler and British officials. This was not unexpected, not only due to the rise of Arab nationalism during this period, but also because each of these groups fell under the sovereignty of different authorities. As a result, each party sought to increase the employment of migrant workers who fell under its respective jurisdiction. Accordingly, the ruler exerted pressure on the oil company to increase the employment of Arab workers under his sovereignty, while British officials were hesitant, viewing such a move as "dangerous."

The strategy adopted by British political officials was to increase the number of Arab employees in the oil company at a pace that was "carefully controlled," ensuring the ruler's satisfaction while keeping Arab employment figures relatively low, and simultaneously expanding the migration of workers under British sovereignty, particularly from the Indian subcontinent. In this manner, recruitment policies and labor classification based on nationality became politicized, a dynamic that has remained an integral part of labor and political affairs in the Gulf to this day, albeit with variations in its modes of application over time.

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During this period, manpower agencies also emerged as an integral component of the Gulf labor landscape. Two primary types of such agencies developed. The first consisted of agencies based abroad, tasked with recruiting workers from their countries of origin for employment in companies in Kuwait. These agencies were widely used by oil companies, which appointed agents in multiple countries to secure suitable workers in an organized and regular manner, as was the case with the Kuwait Oil Company's designated agent in Bombay.

The second type consisted of local contracting companies that supplied labor on a temporary, on-demand basis to firms experiencing sudden shortages of manpower. Under this arrangement, the company paid the contractor providing the labor, while the contractor assumed responsibility for paying workers' wages after deducting a commission. Although this type of labor contractor existed in Bahrain, its use expanded significantly in Kuwait, Saudi Arabia, and Qatar following the commencement of oil exports. Oil companies were among the first to rely on such contractors for local labor recruitment. The Kuwait Oil Company began utilizing them as early as 1949, and similar practices were adopted during the early years of ARAMCO in Saudi Arabia and the oil company in Qatar.[20]

Jordan

Jordan has undergone significant social and economic transformations since the mid-twentieth century, shaped by a range of regional political and economic factors. Among the most prominent of these transformations was the impact of the **1967 war between Arab states and Israel**, which resulted in the displacement of large numbers of residents from the West Bank into Jordan. This substantial population influx had a profound effect on the Jordanian economy, fundamentally reshaping its structure. During the 1970s, Jordan experienced another wave of economic and social change as large numbers of Jordanian citizens migrated to work in the oil-rich Gulf states, leading to the inflow of significant remittances that contributed to the growth and expansion of the national economy.

Urbanization in Jordan

These economic and social transformations gave rise to a marked process of **urbanization in Jordan**, which became particularly evident from the 1970s onward. The urbanization threshold in Jordan was defined at a population size of 5,000 for a given settlement, and statistical data indicated that population growth in rural areas was relatively low compared

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to urban areas. For example, the **1994 census** showed that the cities of **Amman and Zarqa** were the most attractive destinations for rural migrants, with their populations increasing by **54 percent** compared to the previous census.[21]

The Impact of Palestinian Displacement

As a result of the 1967 war, Jordan also witnessed a large-scale movement of displaced populations from the Jordan Valley to cities and refugee camps in the highlands. This demographic shift affected both the social and economic structure of the country, as many Palestinian refugees transitioned into sectors requiring higher skill levels, whereas their employment opportunities had previously been more limited.[22]

The migration of Jordanian workers to the Gulf led to significant changes in the domestic labor market and created a need to recruit foreign labor to fill emerging gaps. Among the most prominent groups were **Egyptian workers**, who began arriving in Jordan in increasing numbers from the 1970s onward. This trend was driven by several factors, most notably Egypt's deteriorating economic conditions and the economic liberalization policies pursued by President **Anwar Sadat**. Initially, many Egyptian workers viewed Jordan as a transit point en route to Iraq and the Gulf states; however, over time, a portion of them settled permanently in the Kingdom.

In **1985**, the Jordanian and Egyptian governments concluded a bilateral agreement on the exchange of labor, which contributed to strengthening the presence of Egyptian workers in Jordan. The agreement provided for the equalization of rights and obligations between Egyptian workers and their Jordanian counterparts. In addition, an informal understanding was reportedly reached between **King Hussein** of Jordan and former Egyptian President **Hosni Mubarak** to exempt citizens of both countries from entry visa requirements, further increasing the flow of Egyptian labor into Jordan.

With the outbreak of the **First Gulf War in 1990**, Jordan experienced a substantial influx of Egyptian workers fleeing Iraq, coinciding with the return of large numbers of Jordanian expatriate workers from the Gulf states in the early 1990s. Despite the changes that occurred in the Jordanian labor market, there has remained a persistent need for migrant labor in specific sectors such as **construction, agriculture, and industry**, necessitating the adoption of government policies to regulate the labor market. Consequently, labor recruitment practices have been influenced by these policies as well as by patterns of capital movement.

21 التعداد الوطني للسكان والمساكن، التوزيع السكاني وفق حجم القضاء، 2013.

22 انظر" الأردن والفلسطينيون" لـ ج. الحسيني عام ٢٠١٣، الأطلس الأردني . صادر عن مطابع المعهد الفرنسي لدراسات الشرق الأدنى- عمان.

The origin of the term **kafil (sponsor)** in Jordanian law is found in **Civil Law No. 43 of 1976**, under which kafala is defined as a guarantee provided to a creditor for the fulfillment of a debtor's obligation. In legal terms, this involves the joining of the guarantor's financial liability to that of the debtor as security for the fulfillment of the debt. Kafala is a secondary obligation that follows the principal obligation of the debtor, whereby the guarantor is required to satisfy the debt in the event that the original debtor fails to do so. It is important to note that a kafala contract establishes a legal relationship between the guarantor and the creditor without the debtor being a party to the contract. Accordingly, the mutual consent of the creditor and the guarantor is required, rendering kafala a consensual contract concluded solely by the agreement of these two parties.

This legal concept differs from the **kafala system** as practiced in Jordan, which has not been explicitly stipulated by the Jordanian legislator but is nonetheless affirmed through practice. The system governs the relationship between the employer and the migrant worker and places the worker under the responsibility and authority of the employer, sometimes exposing the worker to exploitation. In the Jordanian context, the kafala system may be defined as the linkage of the migrant worker to a specific employer or sponsor who is responsible for the worker's visa and legal status. This arrangement grants the sponsor (the employer) a substantial degree of dominance and control over the worker, frequently giving rise to criticism concerning violations of workers' rights and freedoms.[23]

It appears that this system was transmitted to **Jordan, Lebanon, and Iraq** from the Gulf states. In Jordan in particular, reliance on migrant labor increased as a result of successive refugee inflows and economic expansion. While Jordan has been among the countries hosting the largest numbers of refugees in the Arab region since **1948**, following the settlement of large numbers of Palestinian refugees in the Kingdom, the most significant transformations in the labor market occurred during the preceding two decades, with the arrival of large numbers of refugees from **Iraq** and, from **2011**, from **Syria**. By the late twentieth and early twenty-first centuries, the composition of the migrant workforce also evolved in response to Jordan's changing economic needs, with this period witnessing increased inflows of workers from **South and Southeast Asia**, including **the Philippines, Sri Lanka, India, and Bangladesh**.

23 هيومن رايتس ووتش 2020

Despite the substantial role played by migrant workers in the Jordanian economy—particularly in addressing labor shortages resulting from insufficient national labor supply, stimulating economic growth through increased production and national income, contributing to economic diversification and integration, and supporting the public treasury through work permit fees—many migrant workers continue to experience the practices associated with the kafala system. These challenges are compounded by **poor working conditions**, **low or unpaid wages**, and **insufficient legal protection** afforded to them.

Kafala constitutes a structurally burdensome system for workers in Jordan, as workers are placed under the custody and authority of employers, who may act in bad faith and whose primary concern is often the protection of their "financial investment." In some cases, employers may incur recruitment costs reaching **4,000 Jordanian dinars**. Under the Labor Law and the regulations issued pursuant thereto, the employer is legally obligated to pay the fees required for issuing work permits and to pay wages. However, in practice, employers may fail to fulfill these obligations by refraining from issuing work and residence permits, thereby placing the worker in an irregular legal situation. Typically, the employer is not penalized for this failure, while the worker bears the consequences, including the imposition of overstay fines or exposure to **administrative detention**.[24]

The role of the Ministry of Labor is limited to approving and supervising the signing of the employment contract previously concluded between the employer and the worker. Consequently, the responsibility for securing work and residence permits rests with the employer. If the employer fails to renew these permits, the employer may be penalized and required to pay fines for each irregular worker employed, in addition to bearing the costs of deportation. By contrast, the worker faces deportation and a ban on re-entry into the country for a period of **five years**, or may be prevented, upon the expiration of the employment contract, from transferring to another employer due to the denial of a **clearance and discharge certificate (No Objection / Clearance Certificate)** required by the Ministry of Labor. This practice has enabled employers to financially exploit workers by conditioning the issuance of clearance and discharge certificates on the payment of monetary sums by workers.

24 (بين المطرقة والسندان. مركز تمكين للمساعدة القانونية وحقوق الإنسان. أغسطس 2012 (52

It is notable that on **17 September 2024**, the Comprehensive Guide on the Principles Governing the Issuance of Work Permits for Non-Jordanian Workers was issued. This guide exempted workers whose work permits had expired and for whom a period of three months had elapsed from the requirement to obtain clearance and discharge certificates from their employer for the purpose of transferring to another employer. This development limits the practical application of the kafala system and enhances workers' freedom to move between employers.

Jordanian legislation does not contain an explicit reference to the term **kafīl** (sponsor). Nevertheless, the legislation is strongly influenced by the kafala system as practiced. Through practical application, all migrant workers are subject to the constraints of this system, particularly due to unclear and ambiguous legal conditions that enable its operation, especially with respect to linking a worker's residence to a specific employer. This linkage restricts the worker's freedom of movement and contributes to social isolation.

It is therefore evident that, despite the absence of any explicit statutory provision formally establishing the kafala system within the Jordanian legal framework, the relationship between the worker and the employer continues to retain many of the defining characteristics of kafala, including **structural inequality**. Jordan continues to lack tangible tools to ensure effective protection mechanisms for the rights of migrant workers, leaving this vulnerable group without adequate remedies within a system that tends to favor the authority of employers.

In an effort to limit kafala-related practices, the Ministry of Labor began implementing the **freelance work permit system** in **September 2019**, with the aim of reducing employer exploitation and mitigating the effects of the kafala system as practiced but not explicitly codified in legislation. Pursuant to the **Regulation on Work Permit Fees for Non-Jordanian Workers No. 142 of 2019 and its amendments**, workers were permitted to transition to freelance work permits in the **agricultural sector**, **construction sector**, **loading and unloading activities**, or other categories as determined by the Minister of Labor.

Work Permit System

A work permit is defined as an official document issued by the Ministry of Labor to a non-Jordanian worker, authorizing the worker to be employed by a specific employer in one of the occupations permitted for non-Jordanian workers. The permit is valid for one year, renewable, and its duration upon renewal is calculated from the expiration date of the worker's most recent work permit.[25]

Jordanian jurisprudence has established that the purpose of a work permit is to constitute a regulatory relationship created by the legislator to organize the employment of foreign labor entering the Kingdom.[26]

Article (12) of the Jordanian Labor Law regulates the employment of non-Jordanian workers and previously required employers to obtain work permits for their employees, with the Ministry of Labor collecting a fee for each permit issued.

The Article further stipulated that no non-Jordanian worker may be recruited or employed without the approval of the Minister or the Minister's delegate, provided that the work requires expertise or skills not available among Jordanian workers, or that the available number of Jordanian workers is insufficient to meet labor demand.

The most recent amendment to Article (12), dated 15 June 2021, requires non-Jordanian workers to obtain a work permit from the Minister or the Minister's delegate prior to recruitment or employment, with a validity period of one year or part thereof, unless the Minister determines that the permit may be valid for two years for specific sectors or activities designated by ministerial decision. The duration of the permit upon renewal is calculated from the expiration date of the previous permit. Whereas the provision previously stipulated that the Ministry would collect the permit fee from the employer, it now provides for the collection of fees without specifying whether the employer or the worker bears responsibility for payment.

Pursuant to this Article, Regulation No. 36 of 1997 on Work Permit Fees for Non-Jordanian Workers, as amended, was issued and subsequently repealed, and replaced by Regulation No. 142 of 2019 on Work Permit Fees for Non-Jordanian Workers and its amendments, which set work permit fees according to economic sectors and activities.

25 المادة 2 من تعليمات لسنة 2020 (تعليمات شروط وإجراءات استخدام العمال غير الأردنيين من الجنسية السورية لسنة 2020) وتعديلاتها.,

26 استقر الاجتهاد القضائي على إن عدم حصول صاحب العمل على تصريح عمل للعامل وفق أحكام المادة (12) من قانون العمل لا يجعل عقد العمل باطلاً ولا يؤثر أو ينقص من حقوقه العمالية والتي رتبها قانون العمل له لأن مسؤولية حصول العامل على التصريح المطلوب تقع على صاحب العمل وأن الحصول على هذا التصريح ليس من الأركان الأساسية لعقد العمل ، كون أن الهدف من الحصول على تصريح عمل غير الأردني هي مسألة تنظيمية أنشاها المشرع لتنظيم العمالة الغير أردنية ، وذلك وفقاً لقرار تمييز حقوق (3705/2004).

The importance of obtaining a work permit lies in conferring legal status on the worker, ensuring lawful employment in Jordan, providing protection against exploitation, and safeguarding the worker's full labor rights. It also enables access to various government services, particularly those provided by the Ministry of Labor and the Wage Authority, which requires non-Jordanian workers to hold a valid work permit in order to appear before it and pursue claims related to their rights. This stands in contrast to the judiciary, which has treated the work permit as a purely regulatory relationship and does not require possession of a work permit as a condition for standing or litigation before the courts.

Freelance Work Permits

Data issued by the Ministry of Labor indicate that the number of workers holding valid work permits reached 292,271 by the end of 2022. Egyptian workers constitute the largest proportion of Arab workers holding work permits in the Jordanian labor market, accounting for 49.2 percent of the total non-Jordanian workforce. As of October 2024, the number of valid freelance work permits stood at 1,007 permits in the agricultural sector, while the construction sector and loading and unloading activities accounted for 15,752 valid freelance work permits. [27]

The Ministry of Labor began implementing the freelance work permit system for migrant workers in September 2019, with the objective of reducing employer exploitation and mitigating the burdens associated with the kafala system as practiced—though not explicitly codified in legislation. Pursuant to the Regulation on Work Permit Fees for Non-Jordanian Workers No. 142 of 2019 and its amendments, workers were permitted to transition to freelance work permits in the agricultural sector, the construction sector, loading and unloading activities, or other categories as determined by the Minister of Labor, in exchange for an annual fee of 800 Jordanian dinars. The Regulation also specified the permit fees payable by employers who hire non-Jordanian workers. Article (6) of the Regulation further provides that an employer shall be charged a late-renewal penalty amounting to 50 percent of the work permit fee if the permit expires and is not renewed within ninety days of its expiration date. Notably, the Regulation does not impose any penalties on workers holding freelance work permits in cases of delayed renewal.

Pursuant to Regulation No. 142 of 2019 and its amendments, a ministerial circular dated 22 September 2019 was issued, setting out the principles governing the issuance of freelance work permits for daily workers for the year 2019. Under these circular, non-

27 حتى تاريخ 1/10/2024

Jordanian workers legally present in the Kingdom were permitted to obtain freelance work permits in the agricultural sector, the construction sector, and loading and unloading activities, provided that the application was accompanied by a copy of the worker's valid passport, proof of passing the mandatory medical examination for migrant workers confirming fitness for work, and payment of the prescribed fees.

Prior to the amendment issued on 16 March 2020, the cost of obtaining a freelance work permit amounted to 1,400 Jordanian dinars in the agricultural sector and 1,900 Jordanian dinars in the construction and loading and unloading sectors. These fees were considered high when compared to the cost of ordinary work permits. Accordingly, in 2022, the Ministry of Labor unified the fees for freelance work permits—inclusive of additional charges—setting them at 800 Jordanian dinars per year for each daily worker seeking a freelance permit in the agricultural, construction, or loading and unloading sectors. A subsequent circular was issued by the Ministry of Labor clarifying the principles governing the issuance of freelance work permits for daily workers pursuant to Article (7) of Regulation No. 142 of 2019 and its amendments. This provision permits non-Jordanian workers present in the Kingdom to obtain freelance work permits as daily workers for employment in agriculture, construction, and loading and unloading activities, with the permit issued by the Minister of Labor or his delegate.

With regard to the procedures for obtaining a freelance work permit, an application must be submitted to the Ministry of Labor through the authorized body responsible for organizing and receiving applications, namely the National Employment and Training Company, against a fee of 50 Jordanian dinars paid by the worker. The application must include a copy of the non-Jordanian worker's valid passport, in addition to the annual medical examination required for migrant workers, the results of which must be uploaded to the electronic migrant labor system.

Under the freelance work permit system, a non-Jordanian worker holding a freelance permit is authorized to work for any employer within the same permitted occupation. The freelance work permit card includes the worker's name, permit number, nationality, personal identification number, occupational details, the start and end dates of the permit, and the directorate that issued the permit. The employer field on the permit card lists the organizing entity, namely the National Employment and Training Company, and the remarks section states that the worker is permitted to work for any employer within the same occupation.

The governing principles stipulate that a worker holding a freelance work permit is prohibited from working in any sector, activity, or occupation other than those authorized under the permit, and is not permitted to transfer to other economic sectors or activities. Workers holding freelance work permits as daily workers are exempt from decisions relating to final departure or exit and re-entry permits.

On 30 June 2021, the Social Security Corporation decided to mandate the inclusion of workers holding freelance work permits under the social security system. Accordingly, such workers are required to be compulsorily covered for work injury insurance, unemployment, maternity, death, and natural disability. The system also allows partial voluntary contributions under multiple contribution brackets specified therein. The wage adopted for social security coverage must not be less than the minimum wage applicable to non-Jordanian workers and must not be less than 20 percent of the worker's last wage if the worker had previously been covered under the Social Security Law. For the purposes of social security coverage, applicants for freelance work permits are required to pay the full contributions due for the entire permit period. The Corporation clarified that the decision to include freelance permit holders under social security coverage was intended to ensure social protection for this category of workers and to support efforts to regulate the labor market.

It should be noted that during the COVID-19 pandemic, the fragility of social protection for these categories of workers became evident. During periods of comprehensive lockdown, work stoppages led to the accumulation of debts and financial obligations. Upon the expiration of freelance work permits, many workers were unable to renew their permits or return to their countries of origin due to high financial costs, which compelled a significant number of them to work irregularly. In addition, their inability to travel led some workers to seek alternative solutions, including deliberately exposing themselves to arrest while working in violation of the law in order to be deported pursuant to Article (12) of the Jordanian Labor Law No. 142 of 2019 and its amendments.

Following the authorization granted to Egyptian workers to transition to freelance work permits—aimed at escaping employer exploitation and avoiding practices associated with clearance and discharge certificates, including extortion by some employers who demanded substantial sums in exchange for issuing such documents required by labor directorates for transferring between employers—obstacles faced by workers under this permit regime were documented. Despite the advantages enjoyed by freelance permit

holders, such as the speed of permit issuance and ease of obtaining leave without requiring employer approval (which is sometimes exploited by employers), workers expressed mixed experiences. While many reported satisfaction with the benefits of the freelance permit, they also complained about the high cost of participation in the system, indicating that significant barriers continue to confront workers holding this type of permit.

Migrant Workers Holding Freelance Work Permits in Practice: Challenges Faced by Migrant Workers Issued Freelance Work Permits

1. **High Cost of Work Permit Fees:** Article (2) of the Regulation on Work Permit Fees for Non-Jordanian Workers of 2019 set the fee for a freelance work permit at **800 Jordanian dinars** per year for each daily worker in the agricultural sector, construction sector, or loading and unloading activities. In practice, however, workers pay an annual amount of approximately 877 Jordanian dinars, exceeding the officially prescribed fee.

2. **Mandatory Inclusion under the Social Security Corporation:** Following the decision of the Social Security Corporation dated 30 June 2021, workers holding freelance work permits are subject to mandatory social security coverage. With respect to the determination of the wage upon which social security contributions are calculated, freelance permit holders do not have a fixed wage or stable monthly income. The Social Security Corporation requires that the wage used for coverage not be less than the statutory minimum wage, which, according to the most recent decision of the Tripartite Committee, is 260 Jordanian dinars.28 Based on this minimum wage, 20 percent of the worker's wage would amount to 52 Jordanian dinars per month. By comparison, a Jordanian worker covered by social security contributes 5 percent of their wage, while the employer contributes 11 percent, resulting in a total contribution rate of 16 percent. Workers holding freelance work permits are required to pay the full amount of their social security contributions in advance and in a single lump sum, which amounts to approximately 650 Jordanian dinars per year, constituting a significant financial burden.

3. **Restriction on Sectoral Mobility:** Workers holding freelance work permits are prohibited from transferring to another sector under the umbrella of a single employer. This restriction effectively compels workers—even when working

28 قراران صادران عن اللجنة الثلاثية لشؤون العمل برفع الحد الادنى للاجور صادران مبقتضى أحكام المادة (52)من قانون العمل الاردني رقم)8)لسنة 1996 وتعديلاته بتاريخ 24/2/2020

consistently for a single employer—to bear the full cost of work permit fees and social security contributions themselves, despite the fact that such costs would ordinarily be borne by the employer.[29]

4. **Additional Fees Paid to the National Employment and Training Company:** Workers are required to pay an additional 50 Jordanian dinars to the National Employment and Training Company for the issuance of the freelance work permit. This amount is not included within the official permit fee. The company is a private, non-profit shareholding entity contracted by the Ministry of Labor.

5. **Annual Medical Examination Fees and Related Burdens:** Workers are required to pay 85 Jordanian dinars for the annual medical examination. In addition, according to testimonies from workers in Mafraq Governorate, blood testing for viral hepatitis poses a particular challenge. Many workers undergo the initial blood test in the governorate for permit issuance purposes, where results are often returned as positive. Workers are then instructed to repeat the test at the comprehensive medical center in the capital governorate, where results are frequently negative. In such cases, workers bear the cost of both tests—85 Jordanian dinars for the initial test in Mafraq and 100 Jordanian dinars for the repeat test in the capital—resulting in a compounded financial burden.

6. **Accumulation of Penalties Due to Delayed Permit Renewal:** The requirement that workers enroll in social security and pay the full annual contribution in advance upon permit issuance imposes additional financial obligations that many workers are unable to meet. This often leads workers to refrain from renewing their freelance work permits upon expiration, resulting in the accumulation of penalties for non-renewal, amounting to 200 Jordanian dinars.

7. **Limited Availability of Permit Issuance and Renewal Offices:** Freelance work permit issuance and renewal services are not available throughout all regions of the Kingdom. Workers residing in Mafraq Governorate, for example, face particular difficulties, as the Mafraq Labor Office does not issue freelance work permits. Workers are instead required to submit their applications to the Irbid Labor Directorate, which is authorized to issue freelance permits. This imposes additional financial and logistical burdens on workers.

29 منشور في الجريدة الرسمية ، تعميم رقم 291/2019 صدار عن وزير العمل (mol.gov.jo) pdf_تعميم_291_تصريح_العمل_الحر2019-9-22

8. **Lack of Continuous Employment Opportunities:** Many workers experience prolonged periods without work, sometimes exceeding one week. In addition, workers frequently do not receive the agreed-upon wages, experience delays in wage payment, or are easily subjected to deception and wage-related fraud. This vulnerability is exacerbated by the absence of written employment contracts, as work arrangements and agreements are typically made verbally.

Flexible Work Permits for Syrian Refugees in Jordan

Syrian refugees in Jordan face difficult economic, social, and living conditions, particularly with regard to access to education, healthcare, and employment. These challenges are compounded by the absence of comprehensive social protection frameworks, high unemployment rates, and restrictions on non-Jordanian workers' access to occupations that are open to Jordanian nationals, except within very limited margins. This reality is reflected in a social protection system that suffers from significant shortcomings in Jordan, particularly in relation to social security coverage for refugees, as many non-Jordanian workers and refugees remain outside the social security umbrella.

Despite the limited coverage of workers under the social security system, and notwithstanding certain exceptions, employers in Jordan are required to enroll their workers in the Social Security Corporation regardless of nationality. The law obliges employers to do so upon the issuance of work permits for non-Jordanian workers.

There are three types of work permits available to Syrian refugees:

1. **Flexible Work Permit:** This permit allows the holder to work in all governorates except Aqaba. A flexible work permit is defined as a permit that authorizes the worker to work for any employer within the permitted occupations under a specific occupational group, without being restricted to a specific geographic location. It is issued under the umbrella of accredited cooperative associations approved by the Ministry of Labor or through the General Federation of Jordanian Trade Unions, and falls within one of the occupational groups specified in an annex published by the Ministry of Labor. The permit may be issued through the General Federation of Trade Unions on the condition that the worker is enrolled in social security at a contribution rate of approximately 10 percent of the wage registered with the Social Security Corporation. The validity period of the permit is one year.

2. **Temporary Work Permit**: This permit authorizes the worker to work for any employer or entity implementing wage-based projects, labor-intensive projects, or other projects funded by international organizations, under the occupation of project worker. The permit is valid for six months and is issued by the unit affiliated with the Ministry of Labor located within the premises of the General Federation of Trade Unions.

3. **Standard Work Permit:** This permit is issued to all nationalities for a duration of one year, similar to other non-Jordanian workers, and authorizes the worker to be employed by a specific employer in a designated occupation.

With respect to the flexible work permit, issuance initially began without requiring the holder to register with the Social Security Corporation. Instead, refugee workers were required to obtain an insurance policy costing approximately 45 Jordanian dinars. However, in 2021, a decision was issued mandating registration with the Social Security Corporation and linking such registration to the issuance of the flexible work permit, given that flexible permits are not tied to a specific employer.

Flexible work permits may be issued under the occupation of **worker** within the following occupational groups: agriculture, forestry, and fishing (e.g., agricultural worker); mining and quarrying (e.g., quarry worker); manufacturing industries (e.g., bakery worker/dough mixer); electricity, gas, steam, and air conditioning supply (e.g., maintenance worker); water supply, sewerage, waste management and remediation activities (e.g., waste recycling worker); construction (construction worker / builder); wholesale and retail trade and repair of motor vehicles and motorcycles (e.g., nursery worker); accommodation and food service activities (e.g., restaurant worker / waiter); arts, entertainment, and recreation (e.g., zoo worker); in addition to certain other service occupations (e.g., hand and foot care worker).

On 18 July 2021, the Social Security Corporation decided to extend social security coverage to Syrian workers holding flexible work permits and to make such coverage a condition for completing the permit issuance procedures. This decision entails coverage under work injury insurance, unemployment insurance, old-age insurance, disability and death insurance, and maternity insurance, thereby encompassing all insurance branches provided for under the Social Security Law. Workers are entitled to benefit from these insurances upon fulfilling the eligibility conditions applicable to each.

Accordingly, if a worker commences employment and sustains a work injury—even on the first day of work—they are entitled to coverage for medical treatment expenses. If the injury results in a disability exceeding 30 percent, the worker is entitled to a disability pension; if the disability is less than 30 percent, the worker is entitled to compensation. The worker is also entitled to unemployment benefits if they are unable to secure employment and have accumulated 36 social security contributions, in which case temporary benefits are paid. Survivors' benefits are payable in the event of natural death after two years of social security contributions, and natural disability benefits are payable if the worker suffers a disabling condition after 60 months of contributions.

To access all of these insurance benefits, the worker is required to contribute 5.25 percent of the wage subject to deduction. However, for old-age insurance, the contribution rate is 16.5 percent, although the worker may opt to enroll under specific contribution brackets, allowing payment at 10 percent, 25 percent, 50 percent, 75 percent, or full coverage.[30]

Under the contribution bracket system applicable to social security enrollment, participation at the 75 percent level is governed by Articles (33) and (34) of the Regulation on Inclusion Relating to Voluntary Insured Persons. At this level, the insured person is entitled to all benefits in full, while old-age insurance benefits correspond to the selected contribution bracket. The same applies to participation at the 50 percent and 25 percent levels, which are also governed by Articles (33) and (34), with full entitlement to all benefits except that old-age insurance remains linked to the selected bracket. Participation at the 10 percent level similarly entitles the insured person to all benefits in full, with old-age insurance benefits determined according to the selected contribution level.

The choice of contribution bracket directly affects the amount of the old-age retirement pension and early retirement pension. However, other insurance entitlements—such as natural disability pensions, occupational disability pensions, survivors' pensions, maternity benefits, and unemployment benefits—are not affected by the selected contribution level. Accordingly, if an insured person contributes at the 10 percent level throughout their contribution period, they will receive an old-age pension equivalent to 10 percent of the pension that would have been received by an insured person with the same wages and contribution period who paid full old-age insurance contributions.

It should be noted that Syrian workers were previously treated in the same manner as foreign insured persons residing in the Kingdom. Accordingly, upon leaving the country, they

30 المؤسسة العامة للضمان الاجتماعي-خدمة-الشمول-للعمل-الحر-المرن

were entitled to receive a **lump-sum compensation** of their social security entitlements. However, on **17 September 2024**, the Ministry of Labor exempted non-Jordanian workers of **Syrian nationality** from the requirement of **final departure** following the disbursement of social security entitlements.

Flexible work permits grant workers the freedom to choose any employer and do not bind them to a specific employer. As such, they provide greater labor mobility and contribute to limiting the application of the kafala system. Naturally, this arrangement raises the level of social protection due to the inclusion of workers under the social security system and the requirement of social security enrollment as a condition for obtaining a work permit. Nevertheless, Syrian workers may face challenges in their ability to enroll, as they are required to pay the full amount of social security contributions for an entire year (**with the first two months paid in advance and the remaining months paid in monthly installments**). This imposes an additional financial burden on workers, particularly given that many are engaged in **seasonal employment** for only two or three months, resulting in insufficient income to meet social security contribution obligations.

Challenges faced by Syrian refugee workers operating under the flexible work permit system (prior to June 2024)

Syrian refugees faced several challenges when applying for flexible work permits, primarily related to **financial cost**. Although the cost was previously symbolic—amounting to a total of **77 Jordanian dinars**, including **36 Jordanian dinars** covering two months of social security contributions—these amounts still constituted a burden, particularly given the irregular nature of employment. These challenges were compounded by the presence of **brokering practices and deception**, whereby workers were required to pay additional sums to obtain permits, as well as by the **lengthy processing periods** required for permit issuance. As a result, workers were exposed to questioning and potential liability during labor inspection campaigns conducted by labor directorates, which led many refugee workers to refrain from applying for or renewing work permits.

Despite these challenges and the reluctance of workers to obtain or renew permits, the **Social Security Corporation** issued a decision introducing changes to its regulations applicable to non-Jordanian workers. Under these changes, refugees who had previously been registered under the **10 percent contribution bracket** are now required to pay the costs associated with **full social security coverage**.

With respect to social security contributions under the flexible work permit system, refugees were previously required to pay **18 Jordanian dinars per month** to the Social Security Corporation. Following the amendment, they are now required to pay **56.55 Jordanian dinars per month**. As a result, the total cost of issuing a flexible work permit increased from **77 Jordanian dinars**—which included **36 Jordanian dinars** for two months of social security contributions—to **155 Jordanian dinars**, of which **113.10 Jordanian dinars** correspond to two months of social security contributions.

Current Situation of Syrian Refugee Workers Holding Flexible Work Permits

As of **mid-June 2024**, Syrian workers became required to obtain work permits, in the same manner as other non-Jordanian workers. The current cost of a **flexible work permit** is **475 Jordanian dinars**, which does **not** include the lump-sum payment for the first two months of social security contributions, amounting to **113 Jordanian dinars**, nor does it include the annual medical examination fee of **85 Jordanian dinars**. The permit is issued through the **General Federation of Jordanian Trade Unions**. As a result, Syrian workers now face the same challenges previously encountered by holders of freelance work permits, as the flexible and freelance permit systems have become largely similar in terms of **application, legal effects, and practical challenges**.

Monthly social security contributions for insured persons covered under the flexible work permit are calculated based on the **monthly wage subject to deduction**, provided that it is not less than the statutory minimum wage, according to the following rates:

1. **2%** for work injury insurance
2. **1.5%** for unemployment insurance
3. **17.5%** for old-age, disability, and death insurance
4. **0.75%** for maternity insurance

Payments must be made within the **first fifteen days of the month following the month of entitlement**, in order to avoid the imposition of late-payment penalties.

Difference Between the Freelance Work Permit and the Flexible Work Permit

It is essential to clarify the distinction between the freelance work permit and the flexible work permit, as the two differ in several respects under Jordanian practice. The **flexible work permit** is issued to **Syrian refugees** and allows the worker to be employed by **more than one employer simultaneously** in occupations permitted for non-Jordanian workers within the designated occupational groups, without being restricted to a specific geographic location. It is issued under the umbrella of cooperative associations accredited by the Ministry of Labor or through the General Federation of Jordanian Trade Unions. The flexible permit does **not** require the worker to obtain clearance or discharge from a previous employer in order to transfer between employers.

By contrast, the **freelance work permit** applies to **migrant workers** and operates within **closed sectors**. It does not allow the worker to transfer from a freelance daily-work permit—whether as a daily agricultural worker or a daily construction or loading and unloading worker—to any other sector. Workers may transition to a freelance daily-work permit only from sectors permitted for such transfer. Under this arrangement, a non-Jordanian worker legally present in the Kingdom may obtain a freelance work permit as a daily worker for employment in the following sectors and occupations: –**Agriculture sector**: agricultural worker / daily worker– **Construction sector and loading and unloading activities**: construction worker or loading and unloading worker / daily worker

In terms of cost, the issuance of a freelance work permit for workers in the agricultural sector, construction sector, or loading and unloading activities amounts to **800 Jordanian dinars**, in addition to **50 Jordanian dinars** allocated for professional and technical skills development.[31]

31 انظر الدليل الشامل لأسس اصدار تصاريح العمل

Observations and Critiques of the Flexible and Freelance Work Permit Systems

While the flexible and freelance work permit systems are considered potential alternatives to the kafala system as practiced in reality, it is necessary to assess their impact on workers, employers, and the government.

- **Non-payment of wages and exploitation**: Employment contracts are not mandatory for holders of flexible and freelance work permits who operate on a self-account basis or work for short durations. Workers often accept employment without written contracts, rendering them more vulnerable to wage disputes with temporary employers.

- **Responsibility for repatriation**: Under the law, employers bear responsibility for repatriating contracted workers to their country of origin, or for repatriating their remains in the event of death. Under the flexible and freelance permit systems, however, there remains ambiguity regarding which party bears responsibility for repatriating workers or their remains.

- **Terminology and conceptual clarity**: From a conceptual perspective, the distinction between "freelance" and "flexible" is not substantively clear. A more accurate designation would have been, for example, **work permit not tied to a specific employer**. While the two terms lack a fundamental conceptual distinction, procedural differences may raise concerns related to **discrimination**, as defined under **ILO Convention No. 111**, which defines discrimination in employment and occupation as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation." This definition reflects the international community's commitment to combating all forms of discrimination that hinder social justice and sustainable development. In addition, **ILO Convention No. 100** enshrines the principle of **equal remuneration for men and women for work of equal value**, a cornerstone for ensuring economic and social justice and reducing disparities.

- **Restriction on return to single-employer work under the freelance permit**: Although Jordanian legislation does not explicitly prohibit a worker holding a freelance work permit from returning to employment under the supervision and dependency of a single employer, the **Comprehensive Guide on the Principles Governing the**

Issuance of Work Permits prohibits such a transition. Consequently, once a worker obtains a freelance work permit, returning to work under a single employer becomes effectively impossible, leaving the worker solely responsible for bearing the full cost of work permit fees.

Case Studies of Migrant Workers and Syrian Refugees Illustrating the Challenges of Obtaining Flexible and Freelance Work Permits

The following cases highlight the difficulties faced by migrant workers and Syrian refugees in obtaining both flexible and freelance work permits, with the aim of illustrating the practical challenges encountered in this context.

Case (1):

Anwar, an Egyptian national, faces significant challenges related to his working conditions and work permit status. During his employment under a construction work permit with a specific employer, he experienced multiple labor violations, most notably the inability to obtain a clearance and discharge certificate. As a result, in **2020**, Anwar was among the first workers to obtain a **freelance work permit** as an alternative to his previous situation. However, Anwar currently faces substantial financial burdens due to the high fees associated with the freelance work permit, as he is required to pay up to **1,662 Jordanian dinars annually** to renew the permit. In addition, Anwar reported that when he attempted to return to a construction work permit under the sponsorship of a specific employer, the Ministry of Labor refused his request, further complicating his professional and financial situation.

Case (2):

Abdul Hafez, an Egyptian worker, encountered numerous challenges due to the kafala system, particularly his inability to obtain leave to visit his family and children in Egypt when needed. In **2020**, he decided to pursue a new course by obtaining a freelance work permit. However, he was unable to pay all the required fees upon renewal of the permit, especially during the COVID-19 pandemic, which adversely affected his employment conditions at the time. As a result, late-payment penalties accumulated in addition to the outstanding fees that he was unable to pay.

Case (3):

Ahmed, a Syrian worker, faced several challenges related to obtaining a freelance work permit. Although the permit granted him freedom of movement and independent work, difficulties emerged after issuance. Chief among these was the inability to secure stable employment that would ensure a steady income, directly affecting his capacity to meet the financial requirements associated with permit renewal. One of the primary obstacles Ahmed faced was the obligation to enroll in the social security system. Due to insufficient income, he was unable to bear the required financial contributions or renew the permit. This situation led to the accumulation of penalties, further complicating his financial circumstances and making it difficult for him to continue working legally.

Case (4):

Abdul Rahman, a Syrian worker, suffers from severe economic hardship due to his deteriorating financial situation, which prevented him from renewing his construction-sector work permit in the city of **Ramtha**. He was unable to secure the funds required to complete the permit issuance procedures, reflecting the broader financial challenges he faces amid difficult economic conditions affecting multiple sectors.

These cases demonstrate the need to improve policies and procedures to facilitate access to work permits for these groups in a manner that safeguards their rights and enhances their contribution to the labor market.

What If?

If the freelance work permit system were fully and comprehensively implemented, it could bring about a qualitative shift in the labor market by eliminating the kafala system, which has long restricted freedoms and deprived workers of their fundamental rights. Such a system would enhance labor market flexibility, open new opportunities for workers, reduce employer exploitation, diversify income sources, stimulate innovation, and strengthen economic competitiveness. It would also contribute to better labor market regulation and reduce irregular employment.

Proper implementation of the flexible/freelance work permit system could yield the following benefits:

- **Workers:** Increased income, improved working conditions, and the abolition of kafala practices that restrict freedom of movement and employment.
- **Employers:** Access to a larger pool of qualified workers and increased productivity.
- **Economy:** Diversification of national income sources and attraction of local and foreign investment.

Reducing work permit fees, refraining from imposing additional charges on workers, granting workers the freedom to move to and from flexible or freelance permits, reducing the contribution burden imposed by the Social Security Corporation and allowing monthly installment payments, and expanding the range of sectors covered by these permits would represent positive steps toward improving the work environment. Such measures would significantly reduce reliance on the kafala system and reflect a shift toward enhanced labor rights and a more flexible and sustainable labor market, with positive implications for the economy and society as a whole.

Findings

1. The roots of the term kafala trace back to an ancient Bedouin tradition under which protection and care were extended to a stranger affiliated with a tribe. Linguistically, kafala in Arabic denotes “guarantee” and “care,” which were used in Bedouin culture as expressions of hospitality and fair treatment of outsiders.

2. The origins of the kafala system are linked to the pearl-diving trade, which constituted the economic backbone of the Gulf region prior to the discovery of oil. Ship owners “sponsored” divers each season by employing them in exchange for covering their families’ expenses, which were deducted from divers’ wages at the end of the season, often trapping divers in cycles of debt.

3. The kafala system links the migrant worker to a specific employer (sponsor) responsible for the worker’s visa and legal status, granting the employer significant control and dominance over the worker, frequently giving rise to criticism regarding workers’ rights and freedoms.

4. Jordanian legislation does not contain the term kafīl (sponsor); however, the legal framework is strongly influenced by kafala practices. In practice, migrant workers are subject to constraints arising from ambiguous legal conditions, particularly the linkage of residency to a specific employer, resulting in restricted mobility and social isolation.

5. To limit kafala practices, the Ministry of Labor began implementing the freelance work permit system in September 2019 pursuant to Regulation No. 142 of 2019 and its amendments, allowing workers to transition to freelance permits in agriculture, construction, and loading and unloading activities.

6. A work permit is an official document issued by the Ministry of Labor authorizing a non-Jordanian worker to work for a specific employer in permitted occupations, valid for one year and renewable.

7. Jordanian courts have established that work permits constitute a regulatory relationship created to organize foreign labor and do not affect workers’ entitlement to claim labor rights.

8. The Wage Authority requires non-Jordanian workers to hold a valid work permit to access its mechanisms, unlike the judiciary, which does not require a permit for standing or litigation.

9. Obtaining a work permit confers legal status, protects workers from exploitation, guarantees access to rights, and enables access to government services.

10. As of October 2024, there were 1,007 valid freelance work permits in the agricultural sector and 15,752 in the construction and loading/unloading sectors.

11. A ministerial circular dated 22 September 2019 set the principles for issuing freelance permits to daily workers.

12. In 2022, fees for freelance permits were unified at 800 Jordanian dinars, although workers often pay more in practice.

13. On 30 June 2021, the Social Security Corporation mandated inclusion of freelance permit holders, requiring contributions based on the minimum wage (260 Jordanian dinars), resulting in an annual lump-sum burden of approximately 650 Jordanian dinars.

14. Workers holding freelance permits are prohibited from transferring to other sectors under a single employer, forcing them to bear full permit and social security costs independently.

15. Workers pay an additional 50 Jordanian dinars to the National Employment and Training Company, not included in official fees.

16. Delays in permit issuance result in accumulated penalties of 200 Jordanian dinars, exclusive of fees.

17. The flexible work permit, specific to Syrian workers, allows employment with any employer within permitted occupations and is issued through cooperatives or the General Federation of Trade Unions.

18. As of mid-June 2024, Syrian workers are required to obtain work permits, with flexible permits costing 475 Jordanian dinars, excluding social security and medical examination fees, and facing challenges similar to those associated with freelance permits.

Recommendations

1. Unify the terminology for permits allowing work with any employer under the designation **“Flexible Work Permit.”**
2. Reduce flexible work permit fees and adhere strictly to the amounts stipulated in the applicable fee regulation.
3. Eliminate additional charges imposed on workers beyond official permit fees.
4. Grant workers the freedom to transition to and from flexible/freelance work permits.
5. Reduce the social security contribution burden and allow monthly installment payments instead of lump-sum advance payments.
6. Expand the range of sectors covered by flexible and freelance permits to encourage broader uptake and significantly reduce reliance on the kafala system.

This study reveals that the transition from the Kafala system to flexible work permits in Jordan represents an important formal reform step, yet it continues to face structural constraints that limit its tangible impact on migrant workers' conditions. Despite the decline of the direct legal tie to a single employer, indirect mechanisms of control persist through high fees, procedural complexity, and the linkage of permits to regulatory frameworks that do not grant workers genuine independence in the labour market.

The Jordanian experience demonstrates that reforming migrant labour policies is not simply a matter of changing terminology or administrative tools; rather, it requires a comprehensive review of the contractual relationship between worker and employer, ensuring a balance of rights and obligations and addressing the structural forms of exploitation that the system continues to reproduce in new forms.

Enhancing the effectiveness of flexible work permits requires reducing the financial and legal burdens placed on workers, harmonizing regulatory frameworks, and removing the remaining constraints that undermine freedom of movement and employment, in line with Jordan's commitments to human rights and decent work. Ultimately, the success of this transition depends on whether it evolves from a limited procedural reform into a comprehensive rights-based approach that places the migrant worker at the centre of labour market policies, rather than at their margins.

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