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IRREGULAR MIGRATION TO JORDAN: SOCIO-POLITICAL STAKES

Françoise De Bel-Air

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CARIM
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Françoise De Bel-Air

Associate Researcher, French Institute for the Near East (IFPO), Amman

This publication is part of a series of papers on the theme of Irregular Migration written in the framework of the CARIM project and presented at a meeting organised by CARIM in Florence: "Irregular Migration into and through Southern and Eastern Mediterranean Countries" (6 - 8 July 2008).

These papers will also be discussed in another meeting between Policy Makers and Experts on the same topic (25 - 27 January 2009). The results of these discussions will be published separately. The entire set of papers on Irregular Migration are available at the following address: <http://www.carim.org/ql/IrregularMigration>.

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European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy

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- Mediterranean migration database;
- Research and publications;
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For more information:

Euro-Mediterranean Consortium for Applied Research on International Migration
Robert Schuman Centre for Advanced Studies (EUI)

Villa Malafasca

Via Boccaccio, 151

50133 Firenze (FI)

Italy

Tel: +39 055 46 85 878

Fax: + 39 055 46 85 755

Email: carim@eui.eu

Robert Schuman Centre for Advanced Studies

<http://www.eui.eu/RSCAS/>

Abstract

A striking evidence is the high figures of undocumented migrants in Jordan. The questions asked in the present report are the following: do these figures signal a failure of policies? What are actually the aims of policies directed at illegal migrants in Jordan? And, ultimately, are unauthorized migrants really unwanted, and why?

The report proceeds to review and analyse policies announced, as well as their implementation patterns. The conclusion reached is that migrants, workers or refugees, seem to be wanted or, at least, tolerated, but mostly as illegal, rights-less sojourners. Segregation towards Arab and Asian migrants gives them a structural role in the definition of a national citizenship based on granting of rights, in the negotiation of a 'post-rentier' social contract as well as in the promotion of a Jordan inserted in the capital circulation' networks on the international level. Efficiency of control and law enforcement tools is thus not the issue, as illegal migration is itself a political strategy responding to security agendas.

However, a very recent trend towards organising campaigns of migrants' regularisation can be spotted, as part of closer monitoring of labour market' rationalisation measures and heavy involvement from international agencies in the field of migration issues. Drawing on these recent changes, the report suggests a broader initiative extended to other Middle Eastern migrant-receiving countries like Jordan, in order to speed up implementation of migrants' protection measures and help justifying it in front of populations and investors.

Résumé

La présente note de synthèse met en exergue la dimension sociopolitique de la migration irrégulière en Jordanie et passe en revue les politiques de l'Etat Jordanien et des pouvoirs publics vis-à-vis des migrants irréguliers ainsi que la mise en application de ces politiques. L'auteur conclut que les migrants, travailleurs ou réfugiés, sont tolérés dans la mesure où ils ne mettent pas en question le système de gestion migratoire ainsi que certains fondements politiques structurant l'Etat. Tout en restant des migrants illégaux dont les droits ne sont pas respectés, ils vivent dans un système de ségrégation qui s'insère dans la logique d'un 'contrat social post rentier'. L'auteur analyse et démontre comment la gestion de la migration irrégulière répond elle-même à des impératifs d'ordre politique, sécuritaire et stratégique dans un contexte régional instable.

Introduction

Recently, some officials at the Jordanian Interior Ministry were said to acknowledge that "at least 360 000 of the 500 000 Iraqis living in Jordan do not have valid residency permits", while some (unofficial) estimates put the numbers of undocumented persons including workers as high as half a million¹. The most striking evidence regarding irregular migration in Jordan is therefore, the scale (real or perceived) of the phenomenon, for a country with a population of only 6 million. The central questions asked in this report are thus the following: Does the presence of so many irregular migrants in Jordan signal a failure of policies? What are the aims of the policies directed at these migrants in Jordan? And, more importantly, are irregular migrants really unwanted, and why?

Analysis of policy-making and implementation patterns, in fact, suggests that the answer is "no": migrants, workers or refugees, seem to be wanted or, at least, to be tolerated, but mostly as illegal, right-less sojourners. Indeed, the socio-political dimension of irregular migration specific to Jordan rests on the structural role of migrants in the country's economy, international relations and social system, keeping the bulk of them illegal, as emphasized in the present report. Therefore, we first describe the historical dimension of the issue and analyze State policies implemented to curb the phenomenon. Second, we review the socio-political dynamics impacting on irregular migration. Third, actions taken, actors involved and present debates are all assessed, described and analyzed within the specific context of Jordan. The case of refugees is illustrated through the example of Iraqis who fled to Jordan after March 2003.

State policies on irregular migration to Jordan

Emergence of the issue

Irregular migration first emerged on the policy-making agenda in Jordan in the mid-1980s, after Jordanian expatriates started returning from the oil producing countries, and especially after the first Gulf War which forced some 300, 000 nationals employed in the GCC area back to Jordan. Unemployment levels rose: they reached 30% of the active population. And a set of measures were taken in order to favour the replacement of immigrants by Jordanian workers.²

As for so-called forced migrants, the latter are dealt with on a case by case basis.³ In the case of Iraqi refugees, their uncontrolled access and sojourn in Jordan was put to an end after the terrorist attacks of 9/11, 2005 in Amman, when three Iraqis killed 60 people by setting off bombs in four hotels in the town. Following that event, the perception of Iraqis in Jordan shifted dramatically and measures

¹ Respectively: IRIN. "Jordan: Schools Creaking under Burden of 24,000 Iraqi Students", IRIN-ME, February 13th, 2008, and an interview with Dr Haydar Rashid, Assistant Director General at the Jordanian Trade Association, in: Karaki, L. "905 thousands Arab and Foreign Manpower in Jordan", Al-Dustour, 26/10/2006 and IRIN. "Government Aims to 'Jordanize' Labour Force", Jordan Times, May 25th, 2006.

Irregular migration in this note refers to 1. People having crossed the border to Jordan illegally, thus also residing/working illegally; 2. people having entered Jordan legally, but residing illegally, having overstayed their residency visa and 3. people having entered legally, residing legally or not, performing an economic activity without work permits. This definition applies to all migrants, as Jordan does not grant the status of refugees to forced migrants, being a non-signatory country of the Geneva Convention on refugees. Categories of "work" and other migrants (unrecognized refugees) thus overlap, as well as various categories of illegal migrants. For instance, "refugees" enter Jordan as "guests", and are thus not allowed to enter the work market. Yet, they often work illegally (see p. 6).

² See De Bel-Air, 2005; 2008.

³ After the breaking out of the second Intifadah in 2000, West Bank Palestinians were forbidden to enter the East Bank.

were taken against the overwhelmingly illegal Iraqi presence; though this change was not widely publicized and, in fact, was even denied in official speeches.

Measures taken towards work migrants

Jordanian law has always made a work permit mandatory for foreign nationals before they could join the labor market (Dib, 1979: 15), but Arab nationals could enter the country and reside in it without a permit⁴: getting a job was then easy, as opportunities were many and law enforcement weak. As a consequence, the proportion of illegal workers reached (it was estimated) between one and two-thirds of the foreign labour force during the early 1980s. In 1984, however, the first measures were passed which aimed at regularizing foreign laborers and ended the positive discrimination towards Arab workers over non-Arabs by imposing a residency permit as well as enforcing work-permit applications, thus marking the end of the "open-door" era. In 1990, Egyptian illegal workers were threatened by deportation and 50, 000 of them were effectively sent back⁵; however, only a few hundred illegal workers were later deported, though the government had promised to expel thousands. By 1992, an amnesty was declared which allowed for regularization (Feiler, 1993). Then after 1997, the entry of foreign labour to the Kingdom became conditional on obtaining a work permit from the Jordanian embassy in the country of origin before arrival, starting with Egypt. Since 1999, Labour and Interior ministries have set up tighter control measures over places where foreign nationals lived and worked. Labour inspection teams were strengthened as part of the Strategic Plan of the Ministry of Labour (MoL) for 2006-2010 and started working in partnership with members of the Borders and Foreign National Administration of the Directorate of Public Security, a branch of the Jordanian Police, for punctual verification campaigns of foreign workers' papers outside and inside Qualifying Industrial Zones (QIZs). Part of the MoL's Strategic Plan for the first part of 2007 was to proceed with the electronic connection between the MoL's files and border centers and, more generally, with the implementation of an electronic service system project for guest workers (HKJ/ MoL, 2006: 12).

Due to policy-changes, the situation of illegal workers is now, in most cases, as follows: workers have entered legally, stayed and worked legally for a while, but overstayed after their documents had not been renewed by their kafil. However, fighting illegal immigration is not the main issue at stake for policy-makers. Rather, the declared aim of Jordanian policy is to decrease the overall numbers of foreign laborers in order to replace them with unemployed locals. Still, the deportation of illegal workers remains anything but massive.⁶ It is the proportion of authorized laborers among them which fluctuates according to amnesties⁷ and the number of work permits handed out by the authorities (De Bel-Air, 2005).

⁴ Law 24 (art. 30) of 1973.

⁵ According to witnesses, for reasons mainly pertaining to the diverging positions of both countries over the coalition formed against Iraq by the Gulf Cooperation Council (GCC) and the Western countries.

⁶ 9,763 guest workers have been deported for violating work permit and residency regulations since the Labour Ministry launched its campaign to crack down on illegal labourers in July 2007. 7,544 of the deported workers have been sent home for violating Labour Ministry regulations and 2,217 labourers for overstepping the Interior Ministry's residency terms (Hazaimah, H. "9,763 Guest Workers Deported so far for Violating Work Permit, Residency Regulations", Jordan Times, April 15th, 2008). However, some others had been "released for humanitarian reasons (workers with children enrolled in Jordanian schools, workers under medical treatment, workers married to Jordanian citizens). Employers found to employ undocumented workers were fined" (HKJ/ MoL, 2007: 3). These workers were employed outside QIZs. In July 2007, the MoL started a procedure to regularize 6,700 guest workers in the QIZs found without valid papers, 1,200 of them who settled their cases being expected to leave the country.

⁷ The last one occurred between 15 April and 7 June, 2007 during which time workers could apply for the necessary documents without any legal/administrative consequences or the payment of relevant fines. A total of 120,203 guest workers registered to obtain the necessary documents. Another three-month grace period ending June 3rd, 2008 targeted QIZ workers who were exempted from accumulating residency and work permit fees on condition that their employers issue them with new permits.

Measures taken towards refugees: the example of post-2003 iraqi refugees

In contrast to the constraints put on the entry of workers, the entry of other Arab forced migrants and visitors remained relatively light. By the start of the US-led war on Saddam Hussein's regime in April 2003, Jordan was estimated to host between 50, 000 and 300, 000 refugees, most of them without residency⁸. The 2003 war and its aftermath brought new waves of Iraqis to Jordan, former allies of Saddam Hussein's regime and, more recently, families fleeing the civil war and clashes with American troops. Their numbers increased steadily until 2006, when it finally reached between 500, 000 and 750, 000 persons⁹. The entry and settlement of Iraqi nationals on Jordanian territory was first governed by standard immigration law,¹⁰ as it is applied to temporary visitors. Incentives for wealthy immigrants were put in place¹¹. For immigrants, most of them living off their savings, law enforcement was weak. It is true that immigration rules stipulate that whoever is caught without a legal permit should be deported on the spot. Still, Ministry of the Interior officials and Iraqi residents said that the police refrain from deporting Iraqis out for humanitarian reasons¹², as confirmed by a Human Rights Watch Report.¹³ Iraqis whose residency permit or visa had expired were thus tacitly allowed to remain illegally in the country.

In spite of this laissez-faire policy, a main feature of Jordanian policy-making towards Iraqi refugees has been Jordan's adamant refusal to consider those Iraqis on its soil as "refugees",¹⁴ thus going against the UN Agencies who want victims of the ongoing war and sectarian strife to find shelter. As Jordan is not a signatory of the 1951 convention,¹⁵ all Iraqis in Jordan are considered "guests", a status precluding access to legal work. They are not considered refugees, a status that would allow them to make claims on the host country.

The November 9, 2005 attacks sparked a complete turnaround in the Kingdom's lenient attitude towards Iraqis. Measures against Iraqis coming into the country were taken from January 2nd, 2006 onwards, and ultimately men between 18 and 35 years of age were forbidden entry, a measure sometimes extended to families. However, this change in policy was systematically denied by officials¹⁶. Later, through 2007, new measures demanded that border-crossers hold visas obtained before their arrival in Jordan, from Jordanian diplomatic missions in Baghdad or elsewhere; a demand

⁸ No official figures were released by any stakeholders: we see here guesstimates gathered from various sources. These Iraqis were victims of the political repression conducted throughout the 1990s against Shi'ites in Iraq, as well as of the economic crisis following the implementation of the embargo.

⁹ 450-500,000 as of May 2007, according to FAFO survey conducted in partnership with Jordanian authorities, 700-750,000 according to UNHCR tallies.

¹⁰ An Iraqi visitor entering Jordan was granted three months stay, after which he either left the country or applied for a one-year residency at the Jordanian Interior Ministry.

¹¹ Measures were regularly taken to facilitate border-crossing procedures, allow purchase of lands and housing, business partnership, investment, etc. Rich Iraqis could get legal residency permits by depositing between 70,000 \$ to 150,000 \$ in a Jordanian bank, investing or buying property. Purchase of Jordanian limited-duration passports has even been made possible.

¹² IRIN. "Jordan: Iraqi government calls for refugee visa fine waiver", *IRIN-ME*, February 7th, 2008.

¹³ "Until November 2005 the Jordanian government and Jordanian law enforcement officials had demonstrated considerable leniency in enforcing immigration laws, usually deporting Iraqis only if they violated other laws". HRW: 2006, chap. III.

¹⁴ See Mahasneh, S. "Judeh: Government Refuses to Abide by the Decisions of the "Commission" on the Recognition of Iraqis as Refugees"; *Al-Arab Al-Yaum*, 13/03/2007; Nimri, N. "Jordan maintains its refusal to consider Iraqis in the Kingdom as refugees", *Al-Ghad*, 15/4/2007.

At the international conference of countries neighbouring Iraq held in Amman on July 26th, 2007 Jordan pledged to admit Iraqi schoolchildren regardless of their residency status only this year.

¹⁵ Nor to its 1967 Protocol. However, it has signed a MOU with UNHCR, under which it agrees to admit asylum seekers, including undocumented entrants, and to respect UNHCR's refugee status determination (RSD). The memorandum also adopts the refugee definition contained in the UN Refugee Convention and forbids the *refoulement* of refugees and asylum seekers. See http://www.rsdwatch.org/index_files/Page917.htm

¹⁶ See speeches by Naser Judeh, speaker of the government.

that made the entry of Iraqis to Jordan extremely difficult.¹⁷ Since May 1st, 2008, international courier TNT Post was granted accreditation to centralise visa applications from Iraqi citizens through its 13 offices (in each of Iraq's governorates), process them and forward them to the Jordanian Ministry of the Interior for assessment¹⁸. The agreement is said to include special directives on dealing with humanitarian cases and expediting application processing.¹⁹ However, while it is claimed that this system was implemented upon the request of the Iraqi authorities in order to guarantee the entry of successful candidates, these measures effectively freeze the numbers of illegal migrants inside the country, as re-entry would be impossible, thus discouraging them from trying their luck back in Iraq or in another country.

As for sojourners, after the bombings, Jordan appears to have begun deporting visa "overstayers" (HRW, 2006), those who failed to renew their residency papers through fear or the lack of funds to pay the fines (conventionally 1.5 JD per day), many Iraqis were thus slipping into clandestinity.²⁰ In most cases, however, those facing deportation were offered the possibility of going to Syria or Yemen, which at the time did not require visas from Arabs.²¹ In February 2008, Jordan announced the second amnesty since December 2005, a decision to waive visa fines (of 1.5 JD, approx. 2\$ per day. See above) on illegal Iraqi residents wishing to return home, and the promise to reduce visa fines by 50% for those who wished to remain in the Kingdom: the amnesty lasted for a three-month period from 17th February-17th May, 2008.²²

Other measures were taken which had a negative impact on Iraqis' living conditions in Jordan: so Iraqis no longer had the right to purchase land and properties.²³ And the stigmatisation of illegality further socially isolated Iraqis: Iraqi children could only attend government schools if the family had a residency permit or if they were sent to a private school, which became increasingly difficult for impoverished families. Even though in August 2007 Jordan pledged to drop the residency requirement and accept at least 40,000 Iraqi children in its overcrowded public schools,²⁴ enrolment figures released by the Jordanian Education Ministry in March reported a lower-than-expected figure of 18-19000 Iraqi pupils, even though estimates of undocumented Iraqi schoolchildren were revised upwards.²⁵ Persisting fears of deportation and child labour are among the reasons given to explain this low enrolment rate. Also, a modest provision of health care for impoverished Iraqis is increasingly left in private hands or the initiative of NGOs²⁶: illegal migrants have no access to public social or health services

¹⁷ Visas seemed to be issued on a sporadic basis, sometimes as standard three-month visas, but also as transit visas.

¹⁸ The company charges 15,000 Iraqi dinars (12,5\$) for each applicant, who receives a receipt, the application's registration number and a date to check on the result for the application he or she made from the company (See "New System to Aid Visa Processing for Iraqis", *Jordan Times*, April 10th, 2008).

¹⁹ Among documents requested, however, is a document proving nationality, which is difficult to obtain from state-institutions split along sectarian lines.

²⁰ The FAFO Survey conducted in Spring 2007 put the proportion of undocumented persons within the poor Iraqi population to 22% and 56% for the Iraqi community overall (FAFO/ DoS, 2007). Here again, authorities publicly denied any change in the accommodation of Iraqis in Jordan (Abu Sbih, M. "Ministry of Interior: No Changes in the Sojourn of Iraqis in Jordan", *Al-Ghad*, 07/02/07).

²¹ Syria started imposing visas on most Iraqis in October 2007.

²² However, very few Iraqis decided to leave Jordan. IRIN. "Jordan: Visa Fine Waiver not enough to Lure Iraqis Home", *IRIN-ME*, February 21st, 2008.

²³ Mahdi, O. "Jordan Stops the Entry of Iraqis and will Prevent their Owning of Properties", *Elaph*, 21/03/2007.

²⁴ At the international conference of countries neighboring Iraq held in Amman on July 26th, 2007.

²⁵ Hindi, L. "250,000 School-Age Iraqis in Jordan - UN agency", *Jordan Times*, March 2nd, 2008.

²⁶ Dajani, D. "Jabal Taj Clinic to Provide Free Healthcare to Iraqis", *Jordan Times*, March 2nd, 2008.

Jordanian policies towards illegal migrants: a failure or a strategy?

To start answering this question, one must note that, in the light of the measures described above, the aim of the Kingdom's immigration policy does not seem to be the eviction of undocumented foreign nationals from the Kingdom: after all, reported expulsions have been limited in numbers since the mid-1980s, perhaps surprisingly considering that full employment for all Jordanians is the policy-makers' priority.²⁷ Moreover, law enforcement regarding residency was relatively lenient, a stance officially justified on humanitarian grounds though social participation and protection was still denied to undocumented migrants. Lastly, a very recent trend of organising campaigns to regularise migrants should be noted, along with the closer monitoring of labour market rationalisation measures and heavy involvement from international agencies in the field of migration issues (IOM, ILO, UNIFEM, UNHCR, for instance). The apparent paradox of Jordanian policy-making towards illegal migrants could be summed up as follows: migrants, workers or refugees, seem to be wanted or, at least, tolerated, but mostly as illegal, right-less sojourners. Thus, it can be said that policies do not yet seriously counter illegal migration. Their implementation patterns, on the contrary, create a pool of undocumented immigrants, who entered in the country legally but live there illegally after their visa expired, and, in numerous cases, remain on the work market without due permits. To further elaborate on the above-mentioned questions, we now seek to explain these seemingly contradictory policies and their paradoxical outcomes by exploring the social background and political dynamics which such policies respond to, and the contradictory constraints and aim(s) which influenced their design and implementation.

Socio-political dynamics impacting on irregular migration patterns and policies

Migration patterns in Jordan stem from a variety of migration attraction and repulsion factors ranging from domestic to international politics. So do the policies meant to channel those movements, whose apparently unexpected outcomes seem to have been engineered by Jordan's political actors.

Attraction elements in Jordan's migration policy-design*Pan-arabism political inheritance*

We have already noted that, even though legislation governing entries, sojourns and conditions for exercising professional activities did exist in Jordan, they were scarcely applied until the mid-1980s. Indeed, the Hashemite's political philosophy is essentially pan-Arabist, hence the fact of open borders to Arab migrants. At the Emirate of Transjordan's establishment in 1921, the substratum of Bedouin (nomadic and otherwise, Arab and Circassian villagers aggregated with traders, artisans, bureaucrats and soldiers from Hedjaz, Syria and Palestine. Unending regional crises then channelled waves of forced migrants towards Jordan: the 1948 Palestinian refugees, displaced people in 1967 and Gulf War returnees from Kuwait in 1991, as well as refugees from other conflicts, such as that in Lebanon after 1975 and in Iraq in 1991 and, more recently, in 2003. Jordan's Pan-Arabist stance is, to a certain extent, shared by parts of the population who supported the opening of the borders to Iraqis in the name of Arab solidarity.

Legacy of the rentier state: migrants as redistribution commodities

The emergence of the rentier state in the country created a need for foreign manpower while establishing a pattern of clientelist relationships between the State and sectors of society (De Bel-Air, 2008). The import of cheap labor in order to perform productive, service and "3D" activities was an

²⁷ See MoL's website: <http://www.mol.gov.jo>.

element of redistribution in return for allegiance, thereby tying the regimes and societies of the region together. According to sociologist Rima Sabban on the UAE, the "increasing dominance of domestic house workers is part of an unspoken bargain between the state and the emerging civil society, by which the state provides a leisure life in exchange for complete political control." (Sabban, 2004: 90). It is important to note that the rentier state in Jordan was severely hit as economic reforms and the changing nature of resources (development aid, direct and indirect foreign investments) notably modified the modalities of redistribution and saw the emergence of new interest groups, at the expense of others. The perpetuation of privileges through cheap and docile manpower commodities for locals has thus become part of the political bargaining process, especially in the case of domestic workers who are totally dependent on their sponsor under the *kafala* system and their confinement in households, away from the public sphere.

Manpower needs

The reform process experienced by the Jordanian economy implied trade liberalization, financial deregulation and the privatization of assets, as well as the development of productive activities. However, for the reasons mentioned above, Jordanian manpower is reluctant to perform productive, low- and semi-skilled activities, under conditions that are neither financially nor socially rewarding, as illustrated in the example of the QIZs. These export-processing zones were set up after the signing of a Free Trade Agreement (FTA) between Jordan and the USA in 2001. They were meant to be at the forefront of the new economy, channeling foreign direct investments. Yet, manpower needs were immediately felt, as textile and apparel assembly manufactures and investors claimed that Jordanian manpower lacked skills, reliability and "work ethics." Therefore, resorting to foreign manpower appears for the moment to be the only possible alternative if Jordan is to guarantee the success of such productive, export-led activities. It is noteworthy that more than half of QIZs' workers are foreign nationals, mainly Asians (see De Bel-Air / Dergarabedian, 2006).

International relations: political and financial rent-seeking

Bilateral and international relations can also have an impact on migrants' flows. The success of QIZs for example plays an important political role in Jordan-US relations, and encourages the favour of international donors and economic reform-monitoring institutions. The success of these Zones, as we noted earlier, depends a great deal on migrant workers' availability, and the workers' presence happens to play a role in international and bilateral politics (De Bel-Air/ Dergarabedian, 2006).

On another political level, migrant flows between two countries are important vectors in bilateral relations, as is true in the case of Egyptian workers (see supra) or when an improvement in relations between Amman and Baghdad was reported to have led to a decrease or even the cancellation of fines for illegal Iraqis in Jordan.

Financial profit was also an outcome of the open-door policy to non-worker migrants: Arabs' bank deposits have generated a boom since 2000, mainly attributed to Iraqis.²⁸ Additionally, the financial toll of accommodating such numbers of refugees was bargained over with international agencies and Western countries: Jordan emphasized the cost of accommodating such large numbers of refugees.²⁹

²⁸ Since the breaking up of the second Intifada [note spelling different in note above], wealthy Palestinians settled on the East Bank. Also, anticipating and following the Syrian-Lebanese crisis after Rafiq Al-Hariri's assassination, some Syrians started depositing investments in Jordan mainly attracted to Jordan for leisure purposes: some Gulf State nationals followed suit. Purchase of consumer goods sky-rocketed, as well as of real estate properties: foreign real estate purchases had reached 44,7 million Jordanian Dinars mid-2004 and 82,8 by mid-2005. Data released by the Land and Survey Department (quoted in Al Arab Al Yaum, 19/9/2005). Later on, Lebanese citizens fleeing the 2006 war and its aftermath also spent time in Jordan.

²⁹ Nimri, N. "Iraqis in Jordan cost the national economy a billion dollar a year", Al-Ghad, 18/4/2007, later revised to 1,6 billion.

The necessity of granting financial assistance to those countries hosting Iraqis was taken up by UNHCR, which doubled its annual appeal for funding to 123 million and urged the international community to help countries sheltering large numbers of Iraqis, especially Syria and Jordan, while also asking for targeted initiatives aimed at health and education in the host countries.³⁰ More generally, “Jordan's perceived mediating role in the Arab-Israeli conflict and as a US ally in the war in Iraq have restored Jordan's place as a privileged aid recipient, both from the United States and Europe” (Fagen, 2007: 14), a position reinforced by the country's ability to create a refugee crisis.

Repulsion elements in Jordan's migration policy-design

Despite these observations, there is no consensus over the short- or long-term benefits of opening borders to foreign workers and forced migrants, this being widely considered by the public as aggravating economic shortages, putting pressure on natural and infrastructural resources, as well as threatening Jordan's sovereignty and national/ cultural identity.

Economic crisis: competition for resources

As Iraqis are mainly concentrated in Amman, city-dwellers are particularly prone to accusing them of recent price hikes and even shortages of natural resources and housing, deteriorating public services and infrastructure, not to mention increased traffic. Jordanians have preconceived ideas about Iraqi wealth, as ostentatious displays of wealth in housing and leisure characterized the first waves of immigrants, who benefited from Saddam Hussein's regime and oil for food.

It is important to mention however that a study conducted by a Jordanian academic institution gave evidence that migrants' impact on inflation has been exaggerated.³¹

Indeed, the effect of the collapse of the rentier state and progressive liberalization in the economy is an issue that Jordanians still need to absorb. As other scholars have noted, the ongoing popular debate on competition for jobs between imported and local manpower in the work market has made foreigners scapegoats in a difficult adjustment process towards the deregulated economy. However, the government has to take into consideration the danger of having a pool of foreign workers in the country, even if economically advantageous, when there is such high unemployment among local workers (De Bel-Air/ Dergarabedian, 2006). This is why official discourse goes to great lengths to emphasize labour training and improvement measures that are being taken as well as priority rights enjoyed by Jordanian over foreign workers.

Political crisis and weak sovereignty

1988 and the severing of the administrative ties between Jordan and the West Bank, as well as the signing of the Peace Treaty with Israel in 1994, could have marked a watershed in the construction of a Jordanian nation-State. Yet, the uncertainties surrounding the Palestinian-Israeli Peace Process, the creation of a Palestinian national entity, and the implementation of the refugees' right of return have distinct implications on the blurring of Jordan's national sovereignty. This issue has also been exacerbated by the collapse of Saddam Hussein's regime that brought war to its borders. The Jordanian

³⁰ Hattar, M. "Iraq's neighbours grapples with war refugee influx", *Middle East Online*, 26/07/2007, <http://www.Middle-east-online.com/English/?id=21557>. UNHCR. "UN agencies seek US\$85 million to fund health projects for Iraqi refugees", www.unhcr.org/news/NEWS/46f0032b2.html.

³¹ Which indeed rose from 1.6% in 2003 to 6.5% in 2006, coinciding with the Iraqi influx. However it was driven primarily by food prices, which have increased by 21% since 2002, and by sharply rising fuel costs and the lifting of oil subsidies due to regime change. Though related to the Iraqi war, these factors were not overwhelmingly attributable to Iraqi consumption and real-estate purchases (Saif/ De Bartolo, 2007). Inflation is attributed, in another study, to liberal policies implemented since the end of the 1980s and the lifting of subsidies on necessity items (Alissa, 2007).

population fears another massive exodus from the east and shifts in cultural identity as well as sovereignty patterns.³² Jordanians regard then immigration control as a legitimacy test in which the government should demonstrate its worth as a security provider for its citizens (Boswell, 2007: 89).

The Palestinian issue

Jordan's discourse on openness to fellow Arabs, and its tradition of hosting refugees clashed with its acts when it attempted, for example, to address growing popular worries regarding security and sovereignty while abiding by international pressures to accommodate more Iraqis. Indeed, acknowledging Iraqis as refugees would take away Jordan's power to stop them at the border – there would then be a humanitarian imperative. It would also create a precedent, which Jordan fears that it could be extended to West Bank Palestinians, justifying a resettlement of all refugees on its soil, thus angering the Jordanian population over the demographic minority of so-called East Bankers. More generally, Jordan fears that Iraqis could become, like the Palestinians, a permanent refugee population that would import its sectarian and political strife into any host country. By confining most Iraqis to their “guest”, right-less status, Jordan wants to reaffirm itself as an actor on the regional and international stage, an actor eager to monitor the consequences of international pressure and using that pressure to its advantage. In Arab opinion, the regime appears to be defending G. A. Resolution 194 on the Palestinian refugees' rights of return, as well as helping to prevent another "nakbah", be it from the eastern or from the western border. Also, as the regime struggles to keep domestic stability it reaffirms its control over the country's sovereignty for the benefit of its people.

The political advantages of keeping migrants illegal:

Such a set of contradictory factors explaining the welcoming or rejection of migrants sustains, in our view, the hypothesis offered in part One of this report: migrants, workers or refugees, are wanted or, at least, tolerated, but, for the most part, as illegal, right-less sojourners.

First, the claims of the average citizens expressing anti-immigration sentiments and employers' demands for low-wage foreign labor can both be satisfied by keeping migrants illegal. The former are then pleased with tough-looking immigration policies, while the latter is satisfied with ineffective law enforcement.

Second, as stated by Yamamoto, “the process of immigrant integration is simultaneously one of class formation. The state greatly influences this process through its capacity to determine what rights and entitlements migrants may obtain. In this sense, unauthorized immigration represents the power of the state to *illegalize* a certain group of people. Rendering them illegal means depriving them of rights and the protection that the government would otherwise provide. In other words, unauthorized immigrants are constructed by the state as a rightless class of people through the making of immigration laws and policies. Being 'illegal', unauthorized immigrants comprise extremely vulnerable and exploitable members of society" (Yamamoto, 2007). This crucial issue resonates in domestic politics, in the sense that it enhances the social contract by recreating a segmentation between local and foreign populations in general and between protected and unprotected worker in particular, thus enhancing the position of the former. Enjoying basic human rights thus becomes a citizen's privilege. More specifically, illegal manpower becomes extremely flexible, perfectly adapted to a deregularized economy's demands in terms of (short term) maximal profits for investors, or as a private commodity as opposed to a public responsibility as is the case with undocumented domestic workers.³³

³² Widely expressed in public opinion and to some extent in the media. For example: Faouri, H. "Jordan at the crossroads", *The Star*, 15/02/2007.

³³ An issue concerning some 20,000 to 30,000 maids who may be employed illegally (as compared to some 46,000 legal ones) (ITUC CSU IGB: 2007, 14). Data quoted in this International Trade Union Confederation report rest on interviews conducted at UNIFEM's regional office in Amman.

Third, the issue also resonates in international politics, in the sense that external intervention and claims for migrants' rights and entitlements can thus be contained or its effects better controlled by the interlocutor's manipulation of figures. The FAFO study on Iraqis in Jordan is probably an example of data manipulation: officially written to solve the problems of Iraqi refugees in Jordan, the study could instead be interpreted as a tool of external, selective intervention in the social field targeting a specific sub-population, and thereby creating a feeling of deprivation among poor Jordanians. Given that most Iraqis are undocumented and, therefore, reluctant to allow themselves to be surveyed, the accuracy of figures can be questioned and, therefore, the efficiency of measures designed can be controlled.

Policy outcomes, emerging debates and actors on illegal migration

The illegal status of the bulk of the migrants can then become a strategy, rather than a failure of the state apparatus, a strategy that manages the numerous, diverse and far-reaching conflicts of interest attached to the issue of migration.

Assessment of illegal migrants' living condition

Indeed, a wealth of reports was published recently, which documents that migrants in Jordan are effectively an underclass (see bibliographical references). The plight of Iraqi refugees has especially been highlighted, and more precise data on their living conditions has been made available. An IOM report describing their psycho-social needs was widely quoted and discussed in the Jordanian media. This report emphasized a high degree of distress within the community, leading to intra-familial and domestic violence and refugees finding it difficult to readapt to their social and familial roles. The major Iraqi concern is reportedly the strong sense of insecurity felt due to the lack or the volatility of their legal status. Their situation is worsening because of their prolonged displacement and the progressive exhaustion of savings as they are prevented from working. These factors are forcing many Iraqis to work in the black, making them subject to exploitation, abuse and yet still leaving them unable to provide for their basic needs. Cases of mistreatment and discrimination against Iraqis have been reported by stakeholders, in schools and particularly towards Iraqis belonging to religious minorities, namely Sabeen and Shi'a Iraqis. They also lack opportunities for socialization given their illegal status and various economic constraints. Therefore, 80% of the Iraqi population do not intend to integrate into the host community: rather they aim to resettle in a third country or to return to Iraq (IOM, 2008).

Some interest is shown by a few stakeholders regarding work migrants, as their illegal status among foreign workers³⁴ has reportedly led to the formation of a pool of quasi-slave labourers. Moreover, foreign nationals, legal or illegal, are still officially barred from union membership. For example, reports about the invariably female domestic workers emphasize their extreme vulnerability. Not only do they easily fall into clandestinity if the kafil decides not to renew their residency and work permit after their two-year standard contract expires but they are also legally forced to reside at their kafil's, who is supposed to provide for their basic needs (housing, food, etc). The agencies, which organised their arrival do not check on them or verify, for example, that employers renew their residency documents or release them back to their country of origin or to another employer. A study of runaway maids listed the most frequent challenges facing these workers: culture shock (language and customs, employers' prejudices against non-Muslim, non-Arabs), employers or agency withholding workers' passports,³⁵ confinement to the employer's house, unsuitable accommodation, excessive work (the daily average number of working hours is reportedly 15), insufficient food, verbal, psychological, physical and sexual abuse, non-payment of salaries (FWWA, nd.). Runaway maids lack thereby efficient protection, and their confinement in households

³⁴ Migrants entered, resided and worked for a while legally but stayed on after their residence permit expired.

³⁵ In contravention of article 13 of the Universal Declaration of Human Rights.

isolates them and prevents any assessment of their claims against the employer. Moreover, authorities cannot efficiently enforce the payment of work-permit fines by former employers. This increases the situation of maids' entrapment in Jordan.

Debates

The emergence of such a wealth of studies on the migrant population and their living conditions can be taken as a sign of increasing attempts, on the part of international or foreign stakeholders, to intervene in the field of migration management and human-rights protection. For the socio-political, historical and political reasons cited above, abuses towards migrants are not an object of popular debate within the Jordanian population at large, as basic human rights have become privileges, linked to citizenship. Official announcements regarding attempts at improving the living conditions of migrants are thus usually criticised for various reasons: the household is considered a private, untouchable sphere, and allowing foreign maids' social contacts and interaction with civil bodies is seen as dangerously intrusive.³⁶

Human rights' protection seems also at odds with the provision of cheap and docile manpower for investors. As Jordanian authorities cannot consequently take the leading role on migrant rights' protection, debate on migration issues becomes restricted to international agencies and foreign NGOs, on the one hand, and top-level Jordanian administrative and political bodies, on the other.

These issues notwithstanding, measures are proposed and Jordan's compliance to international rules negotiated over. It is important to note in this respect that Jordan is little able to resist external intervention, given its heavy financial and political dependence on international agencies and Western powers. For instance, the abuse of QIZ workers denounced by the US National Labour Committee in May of 2006³⁷ (AmCham, 2006), as well as the progressive UNIFEM intervention since 2000 in enhancing the status of domestics workers, have developed into capacity- and institution building.³⁸ However, effective action is still slow and limited by procedural burdens (FWWA, nd.: 5).

Generally speaking, illegal migration is not as much an issue of public debate as immigration in general, since there is local anxiety about unemployment, pressures on resources and infrastructure, and threats to national security if not sovereignty. Rather, the question of illegality remains contingent upon the complex interrelationships between the international migration regime as a tool in international relations and the national regime acting as a tool of domestic politics.

Actors

The sensitivity of policy changes towards improving the migrants' rights explains the seeming "privatization" of social action for migrants, left increasingly to NGOs, most of them international organizations.³⁹ As listed by IOM on Iraqi refugees at the end of 2007, they dominate the social exclusion alleviation process for refugees in almost every field:

Education: Relief International, QuestScope, Save the Children, Caritas, UNICEF, Mercy Corps and International Rescue Committee are providing non-formal education, catch-up learning and training for teachers.

³⁶ Personal interviews and informal conversations with foreign maids' hosts.

³⁷ Which evolved into an international attack on the US for not having included measures of migrant workers' protection in the text of the FTA.

³⁸ Namely, endorsement of new administrative rules and regulation, and commitment to political action, such as, for example, a reviewing of labour laws and regulations in order to extend coverage to domestic workers and to recognize and enforce their rights and protection for several years.

³⁹ Some refugees complained about the fact that local NGOs or bodies were limiting their service to legal migrants.

Recreational activities: Relief International, Care, QuestScope, Terre des Hommes, Save the Children, World Vision and Mercy Corps are supporting displaced Iraqis with safe spaces for children and vocational training.

Medical services: Caritas, IFRC, Noor Al Hussein Foundation, Jordanian Red Crescent, International Relief and Development, Médecins du Monde, International Medical Corps and the WHO are offering medical assistance in-patient and out-patient, primary health care including outreach units, paediatric and reproductive health care, and medical assistance for severely injured and traumatized Iraqis.

In-kind assistance: Jordanian Red Cross, Caritas, Terre des Hommes, International Rescue Committee, UNHCR, Mercy Corps, Care and International Catholic Migration Commission are assisting displaced Iraqis with the distribution of food and non-food items such as cash assistance.

Legal aid is offered by Mizan, Noor Al Hussein Foundation, Jordanian Women Union, National Centre for Human Rights and Alliance Centre (IOM, 2008: 53).

As for school enrolment for the children of refugees, international human-rights advocates and donors have been criticizing the lack of refugee schooling since the first Iraqi migrants settled in the 1990s. Jordan moved though only when the US urged action.

Regarding the protection of workers and the right to enrol in unions the prime-mover has, since the inception of QIZs, been the Jordanian branch of the General Trade Union of Workers in Textile Garment and Clothing Industries (GTUWTGCI). This union requested the government to reform the labour law to make it compatible with international labour standards. Protection is also extended to undocumented workers, who are given help to regularize their positions. The government finally accepted the GFJTU's request to set up offices in the QIZs and promised to finance them.

The Jordanian General Federation of Trade Unions and the International Trade Union Federation based in Brussels also defend and organize migrants as well as Jordanian workers in the secondary sector. They fight strongly against any abuses of illegal worker: apparently with some success (ITUC CSU IGB, 2007). It may be, then, that hope for right-less migrants in Jordan will come from the QIZs, as unions are politically articulate and action-prone stakeholders.

Conclusion

In this report, we emphasized the structural role of the segregation of Arab and Asian migrants achieved by keeping them illegal and undocumented; in the definition of a national citizenship based on the granting of rights; in the negotiation of a 'post-rentier' social contract; as well as in the promotion of a Jordan open to the world and established in the international networks of capital.

The denial of social and political rights to migrants clearly reveals their status as commodities on the national and international work markets.

We also noted that the denial of refugee status to Iraqi migrants obeyed the same pattern of controlling service distribution, in an unstable domestic political context marked by growing wealth inequalities, ongoing economic adjustment crisis and regional uncertainties.

Immigration policies and, most of all, lax enforcement permit the physical and economic entry of migrants into Jordan. But, at the same time, they prevent social and political establishment in the host society. Efficiency of control and law enforcement tools are thus not the issue, as illegal migration is itself a response to security agendas. The issue is, rather, the conflict of interests and diverging logics hindering a clear-cut, one-way design implementation of migratory policies. The question remains: how can the convergence of interests among all stakeholders be brought about?

The emergence of “purely manpower policies” (Hollifield, 1998) and of a “migration State” (Hollifield, 2004) - i.e. incorporating the numerous migrants in a framework of redistribution and the granting of citizenship-based social and political rights - is still a utopia, even though measures advocated by international agencies have such an end in sight.

Debates over complying with international standards regarding migrants’ entry and employment procedure are already far more advanced, paradoxically, in Gulf countries than in Jordan. The cancellation of the *kafala*, for example, is seriously discussed in the GCC area among national stakeholders. A broader Middle Eastern initiative extended to other migrant-receiving countries like Jordan could help enforce such a measure, which would itself foster other necessary changes. It could also help Jordan justify the necessity of reforms vis-à-vis its people and investors. However, it is important to stress that the far-reaching and country-specific implications of amending migration policy, design and implementation, cannot be brought about by force.

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