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# CIRCULAR AND PERMANENT MIGRATION: A JORDANIAN PERSPECTIVE

*Mohamed Y. Olwan*

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**CARIM Analytic and Synthetic Notes 2008/34**

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**Circular Migration Series**

*Legal Module*

Cooperation project on the social integration  
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**CARIM**  
**Euro-Mediterranean Consortium**  
**for Applied Research on International Migration**

**Analytic and Synthetic Notes – Circular Migration Series**  
**Legal Module**  
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**Circular and Permanent Migration: A Jordanian Perspective**  
Mohamed Y. Olwan  
Faculty of Law, Yarmouk University, Jordan

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

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The Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM) was created in February 2004 and has been financed by the European Commission. Until January 2007, it referred to part C - “*cooperation related to the social integration of immigrants issue, migration and free circulation of persons*” of the MEDA programme, i.e. the main financial instrument of the European Union to establish the Euro-Mediterranean Partnership. Since February 2007, CARIM has been funded as part of the AENEAS programme for technical and financial assistance to third countries in the areas of migration and asylum. The latter programme establishes a link between the external objectives of the European Union’s migration policy and its development policy. AENEAS aims at providing third countries with the assistance necessary to achieve, at different levels, a better management of migrant flows.

Within this framework, CARIM aims, in an academic perspective, to observe, analyse, and predict migration in the North African and the Eastern Mediterranean Region (hereafter Region).

CARIM is composed of a coordinating unit established at the Robert Schuman Centre for Advanced Studies (RSCAS) of the European University Institute (EUI, Florence), and a network of scientific correspondents based in the 12 countries observed by CARIM: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia, Turkey and, since February 2007, also Libya and Mauritania. All are studied as origin, transit and immigration countries. External experts from the European Union and countries of the Region also contribute to CARIM activities.

The CARIM carries out the following activities:

- Mediterranean migration database;
- Research and publications;
- Meetings of academics;
- Meetings between experts and policy makers;
- Early warning system.

The activities of CARIM cover three aspects of international migration in the Region: economic and demographic, legal, and socio-political.

Results of the above activities are made available for public consultation through the website of the project: [www.carim.org](http://www.carim.org)

*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](mailto:carim@eui.eu)

**Robert Schuman Centre for Advanced Studies**

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

## **Abstract**

Jordan is a country of both immigration and emigration as well as being a transit country for migrants. Despite the way that Jordanian laws governing international migration are becoming ever more restrictive, the Kingdom followed, and still follows, a relatively liberal and open policy on international migration. At present, for economic and security reasons, Jordan is not in favor of permanent migration. Instead, a trend in favor of circular migration has emerged: a trend apparent in the new entry, stay and exit laws and regulations pertaining to all foreign workers.

Jordan is a destination country for migrant Arab workers, especially Egyptians, who work in occupations shunned by Jordanian citizens. The paper explores the special rules governing categories of foreign workers after giving an idea about the general rules governing the right to residency and the right to work. Moreover, the paper concludes with a set of recommendations for reforming Jordan's migration policy but acknowledges the difficulty of achieving these recommendations, particularly when it comes to applying Human Rights standards.

## **Résumé**

La Jordanie est à la fois un pays d'immigration, d'émigration et de transit. En dépit de la tendance actuelle à l'adoption de lois relatives aux migrations internationales plus restrictives, la Jordanie a suivi et suit encore une politique de migration relativement ouverte et libérale. Actuellement, en raison de facteurs économiques et sécuritaires, les autorités jordaniennes ne sont plus en faveur d'une immigration permanente. Au contraire, un mouvement favorable à la migration circulaire s'est développée. Il est, notamment, traduit dans les nouvelles réglementations relatives à l'entrée, au séjour et à la sortie des travailleurs étrangers.

La Jordanie est un pays de destination pour les travailleurs migrants arabes, en particulier, les Egyptiens qui occupent les « jobs » stigmatisés par les nationaux. Avant d'étudier les différentes règles qui gouvernent les diverses catégories de travailleurs étrangers que connaît le droit jordanien, l'article dégage les principes généraux qui gouvernent le droit de séjour et l'accès au travail. La conclusion offre un ensemble de recommandations en vue d'une réforme de la politique jordanienne de migration tout en admettant les difficultés d'une telle réforme, en particulier quant il s'agit d'assurer l'application effective des standards internationaux de protection des droits de l'homme et du travailleur migrant.

## **Introduction**

Jordan is a country of both immigration and emigration. The Kingdom followed, and still follows, a relatively liberal and open policy on international migration.

Jordan supports the emigration of Jordanians for employment or investments purposes, and especially emigration to the Gulf region. The Jordanian economy is heavily dependent on the remittances sent by Jordanians working abroad to their families and on their resulting investments in the country.

Jordan is also a destination country for migrant Arab workers, especially Egyptians, who work in occupations shunned by Jordanian citizens such as agriculture, construction and the catering sector, as foreign standards generally, let alone foreign workers' rights. domestic workers, migrant workers in Jordanian Qualified Zones (QIZ) and workers in the Aqaba Special Economic Zone. The Jordanian labor market is still seeking to attract a bigger foreign work force.

Jordan also serves as a transit country for South East Asians recruited through artificial job offers in Jordan and trafficked to work involuntarily in Iraq<sup>1</sup> and Syria.<sup>2</sup>

At present, and owing to different economic and security considerations, Jordanian law governing international migration to Jordan is becoming more and more restrictive and does not favor a permanent migration to the country. Instead, there is a new trend in favor of circular migration and this is clear in the new entry, stay and exit laws and regulations pertaining to all foreign workers. This relatively restrictive legislative policy has not, however, prevented or decreased the illegal presence and irregular work positions of the foreign work force in the country. This paper explores the special rules governing the four categories of foreign workers after giving an idea about the rules governing the right to residency and the right to work. Moreover, a conclusion will follow the examination of these six topics.

## **I. General rules governing Residency and work**

### **1. The Right to Residency**

#### *A. Emigration from Jordan*

The Jordanian constitution guarantees the right of nationals to enter Jordan. Article I of the constitution stipulates that "(i) No Jordanian may be deported from the territory of the Kingdom. (ii) No Jordanian may be prevented from residing at any place, or be compelled to reside in any specified place, except in the circumstances, prescribed by law".

Jordanian nationals, men as well as women, can enter or exit the country freely by holding an ordinary or a diplomatic Jordanian passport (Article 3 of the Law of Passports no (5) of 2003). Diplomatic passports are issued by the Ministry of Foreign Affairs, while the ordinary ones are issued by the Director of the Civil Status and Passports Department if the applicant is in the Kingdom, or by the Jordanian Consul if the applicant is outside the Kingdom (Article 6 of the law). Ordinary passports are valid for five years, (Article 9) and the Minister of Interior may, in special or humanitarian cases, issue an ordinary passport for a period not exceeding five years, which is renewable. However, it does

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<sup>1</sup> U.S. Department, Trafficking in persons Report, June 2007, [http://gunet.com/human trafficking/Jordan 8/9/2007](http://gunet.com/human%20trafficking/Jordan%208/9/2007).

<sup>2</sup> Al-Rai Arab Newspaper, 7 Novembre 2007.

not grant its holder Jordanian citizenship and the Minister may withdraw it at any time (Article 10 of the law).

Jordanian citizens, including Jordanians of Palestinian origin, receive passports that are valid for five years. However, around 150,000 ex-residents of the Gaza strip living in Jordan do not qualify for citizenship and they are given two-year passports valid for travel purposes only. West Bank residents, who have no other travel documentation, are eligible for five-year passports which do not confer citizenship. It is worth noting also that Jordanian married women do not have the legal right to transmit their citizenship to their children.

A large number of Jordanians of Palestinian origin were deprived of their Jordanian citizenship through the Administrative and Legal Disengagement from the West Bank decision of 1988. The deprivation of citizenship has been expanded furthermore to include other categories such as individuals who obtain passports issued by the Palestinian authority and individuals working in Palestinian Authority institutions.

The legality of the withdrawal of the Jordanian citizenship by an administrative decision is not without controversy. Nevertheless, the law suits against decisions taken by the Minister of the Interior, or any other official, in matters related to citizenship before the High Court of Justice, are generally not resolved to the satisfaction of claimants<sup>3</sup>.

Dual or multiple Jordanian – Arab citizenship is prohibited according to an Agreement of 5 April 1954 on Provisions Regarding Citizenship among member States of the League of Arab States<sup>4</sup>. In accordance with this Convention, Article 4 of the Jordanian Law of Nationality no.6 of 1954 stipulates that a non-Jordanian Arab who has resided for fifteen consecutive years in the Kingdom may acquire Jordanian citizenship on the condition that he/she renounces his/her nationality of origin in writing and the law of his/her country of origin permits him/her to do so. Dual Jordanian–non-Arab citizenship became permissible under the 1986 Amendment of the Jordanian Nationality Law (Article 9 of the Law of Nationality of 1954).

Owing to the economic situation in Jordan and the fact that Jordan's population is young and growing rapidly, Jordanian migrants prefer to stay in destination countries for long periods of time, unless they are obliged to leave these countries. This was the case after the Iraqi occupation of Kuwait in 1990, when 400,000 Jordanians, mostly of Palestinian origin, fled Kuwait for Jordan, and have not since been allowed to return to Kuwait by the Kuwaiti authorities.

As an incentive to emigration, Jordanians who work abroad have the right to benefit from social security law no. 30 of 1978. Jordan does not require a Jordanian worker to sign a recognized, legitimate contract before he/she leaves home. Nor is a Jordanian required to register himself at the Jordanian Embassy. The Jordanian government does not keep a database on Jordanian workers abroad and the labor and industrial *attachés* based at the Jordanian embassies do not deal with complaints of national workers and it is not easy for them, in any case, to take appropriate action in Gulf receiving countries. It is regrettable that Jordanians working or living abroad have no right to participate in legislative or municipal elections unless they are in Jordan.

## *B. Immigration to Jordan*

The law on Residence and Foreign Nationals' Affairs (law 24-1973) stipulates the conditions under which a foreign national may enter the Kingdom. Thus, a foreign national can only be granted entry

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<sup>3</sup> M. OLWAN, "Jordan: the legal dimension of International migration", in P. FARGUE (ed.), CARIM Mediterranean Migration Report, , Florence, European University Institut, 2005p. 1500.

<sup>4</sup> Citizenship and the state, Comparative study of citizenship legislation in Israel, Jordan, Palestine, Syria and Lebanon, Ithaca press, 1997, p. 70.

with a valid passport or travel document and an entry visa. However, the Ministry of Interior may exempt any foreign national from these requirements.

According to the Visas By-law no(3) of 1997 there are two types of visas: i) a single or multiple visit visa and ii) a single or multiple transit Visa. Visit or transit Visas must be valid for a period of time that does not exceed two months and are issued by the Ministry of the Interior. Visas issued by Jordanian diplomatic missions abroad are valid for a period of one month from the date of issue (Article 3). Transit visas are granted for a period of seventy two hours, starting on the date of entry to the Kingdom (Article 4).

The entry, work and residence in the Aqaba Special Economic Zone is governed by the By – law no (90) of 2000 and the Regulations no (28) of 2002 related to the same matters.

Any foreign national wishing to stay in the country must obtain a resident permit. He/she has to leave Jordanian territory upon expiry of the residence permit unless he/she has renewed it. Any illegal foreign national is liable to a fine, though exemptions are possible. Foreign national may be expelled if they enter the country illegally or if they are convicted of a serious crime while in the country. The decision to expel can also be taken if the measure will contribute toward the security of the State. According to the law, the Ministry of the Interior has the right to accept or reject a foreign national's application for a residence permit and to revoke his/her residence permit and ask him/her to leave the country without specifying the reasons behind its decision.

The absolute power of the Ministry to deport foreigners has negative effects. For instance, deportation of foreign nationals who are married to Jordanian women has touched on the lives of their Jordanian spouses and children. The foreign wives of Jordanian citizens are sometimes denied residence in the country. Foreigners are also frequently deported even if they are married to Jordanian women if a Court verdict is given against them, irrespective of the type of offence.<sup>5</sup>

In 2005, about 24,000 foreigners were deported, but in 2006 this figure decreased to 10,625 foreigners. It should be noted that deportation procedures are very slow and a fine must be levied on the foreigners who exceeds the term of their residence permit and the deportation order will be executed only after this fee has been paid or the Ministry of the Interior issues an order exempting the violators from payment. Otherwise, they are detained by the administrative governors until the exemption decision has been issued. This process sometimes takes as long as several months which constitutes a flagrant infringement upon their personal liberties.<sup>6</sup>

Expulsion or deportation decisions are administrative decisions and as such they are subject to judicial review before the High Court of Justice in accordance with Law 19 of 1992. But it is unfortunate that law-suits against decisions of the Ministry of the Interior in matters relating to residency before the High Court of Justice have proved, as with citizenship, to be of no use<sup>7</sup>.

## **2. The Right to Work**

The Jordanian constitution states in Article 23 that work is the right of every Jordanian citizen and the State provides opportunities for work to all citizens by directing and improving the national economy. It is further written there that the State shall protect labor and enact legislation based on several principles which are, generally speaking, in harmony with the principles included in the International Covenant on Economic, Social and Cultural Rights and particularly, Article 7 of the Covenant, and with the International Labor Organization (ILO) standards of "suitable work".

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<sup>5</sup> CNRS, The status of Human Rights, 2005, p.22.

<sup>6</sup> CNRS, The status of Human Rights, 2006, p.31.

<sup>7</sup> N. ELKATIB, The General principles of the High Court of Justice – between 1972-1997, , Amman, Daralthaqafa, p.12,17,330.



Jordanian Labor Law n°. 8 (of 1996) views the labor rights stipulated therein as the minimum that may not be disparaged and considers null and void any contract in which a worker sees any of these rights alienated. It entrusts the task of monitoring implementation of the provisions of the law to labor inspectors, upon whom it bestows judicial police capacities. In addition, the law entrusts the Ministry of Labor (MOL) with the task of organizing the labor market, creating job opportunities for Jordanians, licensing offices specialized in employment and organizing the work of non-Jordanian workers, and determining the minimum wage that guarantees an adequate standard of living for workers.

Jordan applies stricter rules to the admission of a foreign national for purposes of work because of the socio-economic conditions prevailing in the country. This is why certain categories of employment such as the public and government sectors, are reserved for Jordanian nationals<sup>8</sup>. The same is true of the free professions.

Article 12 of the Labor Law deals with the employment of non-Jordanian workers. It requires the approval of the MOL for any recruitment; approval that depends on the lack of relevant experience and ability among Jordanian workers. According to the Article, priority shall be given to Arab workers. The non-Jordanian worker employer must obtain a work permit from the MOL prior to his/her recruitment. The period of the permit is one renewable year. The MOL shall charge the employer a fee for the issuance or renewal of the work permit. The Article adds that the employer shall be penalized with a minimum fine of JD 50 and not more than JD 100 (J.D.100 to JD 150 according to the new amendment of 2006) for every month or part thereof that a non-Jordanian worker who is recruited in a manner violating the provisions of the law. The worker who is in violation of the law shall be deported outside the Kingdom at the expense of the employer. The non-Jordanian deportee worker is not permitted to return until three years from the date of the deportation have passed.

Despite positive aspects in the Jordanian constitution and in Jordanian labor law, there are many reasons and factors which negatively influence the employment of foreign workers and their ability to enjoy their rights.

First of all, it is regrettable that the labor law excludes different categories from its scope of application such as agricultural workers and domestic workers. On the other hand, Article 28 of the labor law restricts workers, whether Jordanians or foreigners from striking in various forms. In addition according to Article 23 of the Labor Law migrant workers are not allowed to join unions and as a result foreign migrant workers are banned from joining the 17 nationwide unions in the Kingdom. It is noteworthy that restrictions on the freedom of association cover Jordanian citizens as well, this freedom is still denied to teachers who constitute around 50% of all public-sector employees.

## **II. Legal Status of different categories of Foreign Workers in Jordan**

Egyptian migrant workers constitute the quasi-majority of foreign workers in the country. This is why the status of Egyptians workers is explored first here, followed by the three other categories of foreign workers:

### **1. Egyptian and Other Arab Workers in Jordan**

The legal status of Arab workers in Jordan can be described as follows:

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<sup>8</sup> Article 43 of the By-law on Civil Service no (30) of 2007.

### *A. The Memorandum of understanding between Jordan and Egypt*

A memorandum of understanding was signed between the MOL of Jordan and the Egyptian Ministry of Manpower and Immigration on March 29, 2007 (The agreement is available under the Jordan national page of the CARIM web page [www.carim.org](http://www.carim.org)). The memo regulates the entry of Egyptian laborers to Jordan based on the needs of local labor market and in particular the need to provide more employment opportunities for Jordanians. It specifies the sectors in which Egyptians are allowed to work, in addition to requiring them both to undergo compulsory medical tests and to produce police clearance reports (Article 1).

Under the memo Egypt is required to keep a computerized database containing the names of those who wish to work in Jordan and must give Jordan access to this material so long as Jordan can receive this information in a digital form (Article 2).

The memorandum also states that the Jordanian side will provide the Egyptian side with the names of the Egyptian workers who are selected by employers after paying work permit charges, and will also pass on copies of their contracts to complete the signing of the workers, contracts that are to be returned to the Jordanian side: the permit will enter into effect from the date of entry into the Kingdom, a date which is stamped on the worker's passport (Article 3).

Under the memorandum, the Egyptian side will also call workers who were selected to work under listed contracts and stamp their passports with the name of the employer and the sector in which he/she will work. The Egyptian side will take necessary action to ensure that entry into the Kingdom will be within one month from the date of the dispatch of the labor contract (Article 4).

As of August, 2007, Jordanian employees who wish to recruit Egyptian workers were able to access applications submitted by job-seeking Egyptians on the Ministry's website. The website provides employers with the necessary information on the numbers and types of occupations for Egyptian laborers who apply to the Egyptian Ministry of Manpower seeking employment in Jordan. According to this recruiting procedure, agreed upon between the Jordanian and Egyptian labor ministries, around 44,500 Egyptian workers have electronically submitted job applications at their Manpower Ministry since the beginning of the procedure on May 1<sup>st</sup>, 2007. Information on these procedure and on the MoU are available on the MOL's website ([www.mol.gov.jo](http://www.mol.gov.jo)).<sup>10</sup>

### *B. Temporarily Suspension of the entry of Egyptian Workers*

In mid-April 2007 and in line with the terms of the memo, the MOL temporarily suspended the entry of Egyptian workers into the Kingdom. The decision came after years of open immigration policy towards Egyptians, who were permitted to enter Jordan with nothing more than their passports and without first having to obtain a visa. The Ministry gave illegal residents a grace period to enable them to become legal in accordance with the labor and residency laws, that is either by applying for a new work permit or by switching to vocations that they were entitled to. During the period of status correction the MOL in coordination with the Ministry of Interior, stopped tracking and prosecuting illegal foreign workers and their role was limited to guiding and urging them to correct their status.

The grace period was limited to the professions that are permitted to expatriates and did not include closed professions. People who entered the country for the purpose of visits or pilgrimage and do not have work permits, people with expired import contracts who have not yet completed procedures for the issuance of the permit, and those who desire to move within the same sector or from one sector to

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<sup>9</sup> The Jordan Times 12.8.2007, Alghad Arab Newspaper 23.8.2007.

<sup>10</sup> The Jordan Times 12.8.2007, Alghad Arab Newspaper 23.8.2007.

another and have expired work permits or include a release from their employer where the permit is still valid can all benefit from the grace period. During the grace period thousand of work permits were issued (83,108) to Egyptian workers more than to any other nationality.

For Egyptian workers who were unable rectify their status during the grace period another road to the Jordanian labor market was through the sponsorship of the Egyptian Embassy.

### *C. Crackdown on illegal workers*

In mid-July, 2007 and following the end of the grace period, labor inspectors in cooperation with the Ministry of Interior and the Public Security Department launched an inspection campaign to insure workers and employers are abiding by labor and residency laws.

Employers found recruiting illegal workers are liable to fines ranging from JD 100- JD150 per infraction and are not allowed to hire foreign workers in the future. As to workers who do not have valid work permits, they are placed in custody pending deportation. The decision to deport or not is left up to the MOL as the worker is violating labor law. If, instead, the violation is related to residency law the decision is taken by the administrative governor. Deportation takes place as soon as the illegal workers have cleared all outstanding debts and have received all salaries owed to them from employers.

During the campaign, around 6,000 illegal foreign laborers were held in detention centers of the public-security department awaiting deportation to their home countries<sup>11</sup>. Around 2,000 illegal foreign workers have been deported<sup>12</sup>, most of the deported workers are Egyptians, Syrians forming the second largest group<sup>13</sup>.

Illegal workers are detained in conditions that often violate basic human rights, but those detained are not automatically deported and a good percentage of them are not deported at all. A follow-up committee set up by the MOL deals with complaints fielded by workers against the inspection teams, pays regular visit to detention centers and interviews workers in custody to check on their condition and any claims of mistreatment. Decisions relating to the detention and deportation of illegal foreign workers can be cancelled by the commission in specific cases for humanitarian reasons. These cases include the case of foreign workers married to Jordanians, patients undergoing hospital treatment, and illegal workers who have children enrolled in schools<sup>14</sup>.

Illegal workers have 30 days to rectify their status and laborers who have already applied to the Egyptian Embassy for a work permit under its guarantee scheme are given a one week grace period before being deported.

It is noteworthy that the campaign targeted all illegal foreign workers in the Kingdom except those working in the Aqaba Economic Zone and the QIZs. The crackdown will last until the end of this year 2007, but it was suspended during Ramadan, and resumed at the beginning of November 2007.

According to the MOL's latest figures the legal Egyptian work force in Jordan is estimated at 223,690 out of a total of 317,231 foreign workers. This means that around 71% of the non-Jordanian workers population is Egyptian<sup>15</sup>. There are around 100,000 foreign laborers working in the country

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<sup>11</sup> AL Rai Daily Arabic newspaper 3.9.2007 ,The Jordan Times 17.9.2007.

<sup>12</sup> AL Rai Daily Arabic newspaper 3.9.2007 ,The Jordan Times 17.9.2007.

<sup>13</sup> Al Rai Daily Arabic newspaper, 1.11.2007.

<sup>14</sup> The ministry's follow-up committee has so far cancelled the deportation of 350 cases for humanitarian reasons. The Jordan Times, 17.9.2007.

<sup>15</sup> Alarabalyawm daily newspaper, 3.11.2007.

illegally, and the number of Egyptians working illegally in Jordan is far above 10,000. All illegal workers are vulnerable to exploitation by employers and officials alike.<sup>16</sup>

#### *D. New regulations on the Employment of Foreign Workers*

The recruitment of foreign workers is now governed by a new regulation which came into force after its publication in the Official Gazette on August 2, 2007. The new regulations replacing the previous ones of 2006 stipulate that employers willing to recruit foreign workers, other than Egyptians, inside the country or wanting to bring a foreign worker to Jordan must submit an application for this purpose to the MOL (Article 3).

Prospective employers of foreign workers are required to provide a notary or a banking guarantee ranging from JD300 to JD 40,000 according to the number of workers at the enterprise and whether the recruited workers are required to obtain a visa to enter the Kingdom or not (Article 4). The purpose of the guarantee is to protect the rights of workers: there have been wage violations committed by some sponsors and agents.

Government departments, public universities, greater Amman municipalities and regional offices are exempted from the notary or banking guarantee requirement (Article 4). On the other hand, Foreign workers at the QIZ and domestic workers are excluded from the new regulations and are governed by separate rules (Article 10).

The Recruitment of foreign workers is based on the needs of the work market and it takes into consideration the list of closed professions. The MOL decides the desired percentage of foreign workers in each of the economic sectors of the country, taking into consideration the policy of the gradual replacement of a foreign work force by Jordanians (Article 10).

## **2. Rights and Working conditions of Domestic Workers**

Domestic laborers constitute a large part of the foreign nationals working in Jordan and the overwhelming majority of women who migrate to Jordan are engaged in domestic work. The estimated number of domestic workers that Jordan is home to, legally, stands at 60,000 domestic workers, predominantly from Indonesia, Sri Lanka and the Philippines, with around 615 working illegally<sup>17</sup>, and these numbers are increasing dramatically because more and more Jordanian families are willing to employ a foreign helper.

Labor law does not cover domestic workers because they are not considered employees and the household in which they work is not considered a work place, still being seen as a private domain beyond the reach of regulation and supervision by inspectors of the MOL. As such, the domestic workers are denied the status of "*real workers entitled to labor protection*"<sup>18</sup>. On the other hand, Social Security law no. 19 of 2001 excludes some categories from the personal scope of its application, including agricultural workers and household laborers.

Domestic laborers' rights are violated in the same way as foreign workers. Furthermore, they are subjected to particular kinds of infringements, such as being forced to work in more than one house, and being subjected to exploitation and abuse by both employers and officials alike. They are sometimes deported by order of the administrative governor on the basis of a claim by their employers that they are engaged in immoral practices or that they commit such crimes as theft.

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<sup>16</sup> The National Centre for Human Rights (NCHR), *The status of Human Rights 2005*, p. 34.

<sup>17</sup> <http://www.irinnews.org>, <http://www.black-iris.com>,  
<http://www.Jordan-embassy.u.org> 8.9.2007

<sup>18</sup> <http://www.migrationinformation.org> 8.9.2007

Other forms of maltreatment of domestic workers include sexual harassment, rape, the withholding of wages, over-long working hours, limits to freedom of movement even on weekends and beatings. These forms are reported to the NGOs in the country, but they are not challenged before the courts because domestic workers are not prepared to lodge legal complaints against employers or recruitment agencies.

The minimum monthly wage which became JD 110 in 2006 is far below the poverty line and it cannot provide a decent standard of living. It is, in any case, not applied to migrant workers in general or to domestic workers in particular.

Foreign domestic workers are employed through private employment agencies. Around 95 of the 102 agencies for the recruitment of domestic workers are licensed by the MOL, yet several agencies registered at the Ministry of Industry and Trade are involved in bringing in domestic workers, under the cover of their licenses, as commercial services offices, which enable them to evade the provisions of the law. Sometimes female domestic workers are brought in with false passports stating that they are older than 20 years, while in fact they are 15 years of age, and even younger. They are obliged to pay considerable amounts of money to recruitment agencies before they leave their countries.<sup>19</sup>

Domestic work is generally not regulated, the terms and conditions of work are unilaterally established by the employer. In fact, Jordan, as other Arab countries, has not considered domestic work a sector of the economy that should be regulated and protected.

The MOL is expected to issue, by the end of September 2007, new instructions governing the recruitment of domestic workers. The new regulations are meant to improve the working and living conditions of domestic workers in the country. Regulations governing recruitment agencies will be amended as well. Furthermore, a multi-language booklet issued by the MOL detailing the rights and duties of foreign workers prescribed by law will be handed to them upon their arrival in the Kingdom. The MOL will also establish a notary office at its headquarters, in addition to certifying a standardized contract to be issued by all recruitment agencies. It will also make available a twenty-four-hour telephone hotline number on work permits in case of complaints.<sup>20</sup>

### **3. Foreign laborers in the Qualified Industrial Zones (QIZs)**

The Qualified Industrial Zones (QIZs) agreement with the US, signed in 1997, entitles goods produced in these industrial parks to duty-free and quota-free access to the American market as long they have a specified Jordanian-Israeli input. Currently there are ten QIZs in the country housing 50 factories, three of them are owned by the public sector and the remainder are owned by the private sector and all together they provide jobs for around 36,000 foreign laborers and 18,000 Jordanians<sup>21</sup>.

Foreign workers in the QIZs are recruited through the Jordan Investment Board, established according to the Investment laws of 2003 and the Investment Promotion law of 1995. The Board is a government body enjoying both financial and administrative independence. The employer has to submit an application to the Board, and a delegate of the MOL decides whether to give or not to give approval. The delegate takes into consideration different factors including the policy of gradual replacement of a foreign work force with a Jordanian one. The permit of work for non-Jordanian workers is issued following approval from the Ministry of Labor. The worker in the QIZ's is not allowed to be employed in any other sector of economy.

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<sup>19</sup> Alghad Arabic Daily Newspaper, 23.7.2007; The National Center for Human Rights, Status Report of Human Rights, Jordan, 2006, p. 38.

<sup>20</sup> The Jordan Times 6.7.2007 and Al Rai Arabic Daily Newspaper 5.7.2007, Al-Ghad Daily Arabic Newspaper 1.6.2007.

<sup>21</sup> The foreign laborers numbered only 5,000 in the year 2001. AlGhad Daily Arabic newspaper 23.8.2007 and Al-Rai Daily Arabic Newspaper, 18.9.2007.

Furthermore, to ensure the compliance of the employer with the law, by-laws and regulations, the Regulations governing the employment of foreign workers at the QIZs<sup>22</sup> require of the prospective employer a banking guarantee ranging from between JD 30.00 to JD 75.000.

The Regulation exempts employers on the "golden list" from this bank guarantee and the work permit is not given unless the Embassy of the prospective workers certifies that the worker is employed through an authorized recruitment agency of his/her country.

In July 2007 the MOL started issuing ID cards to around 6,000 Asian workers employed in the QIZs, whose work and residency permits had expired, as the first step to the regularisation of their situation.<sup>23</sup> The ID cards give workers a three-month period to renew their documents. During this period the card holders would not be pursued by labor inspection teams or the police force. The reason behind the expiry of work and residency permits is attributable not to the workers, but to some plant owners, whether Jordanians or foreigners who brought the workers into the Kingdom and who have gone out of business, through bankruptcy and other causes, and have left the country without paying their workers' wages. As a result, workers who are recruited by these companies failed to renew their residence and work permits. In some other cases the plants do not complete the legal procedures for workers to obtain work and residence permits thus subjecting them to the danger of deportation. The courts examined about eight lawsuits filed by the workers against their employers and a recent ruling by a court in Irbid banned some company owners from leaving the country and ordered the selling of a factory's machinery to compensate its workers.<sup>24</sup>

Strikes have become common place in QIZs and the years 2006 and 2007 saw a number of strikes carried out by hundreds of foreign workers there. The workers' complaints include low and unfair wages and delays in their payments, lack of medical insurance, shortage in labor inspections, poor food and poor quality of life and work as well as a dangerous work environment. According to labor law, workers who plan to initiate a strike have to inform their employers of their intention to carry out the strike 15 days earlier. Under the same law, workers who carry out illegal strikes must each be fined JD 50 for the first day of the strike and thereafter JD 5 per day. As the requirement to give notice is often not fulfilled, workers are frequently fined and they resume work after mediation with the MOL.<sup>25</sup> Workers participating in the strikes are sometimes deported after signing a paper in which they recognize that their deportation is voluntary and without constraint.<sup>26</sup>

In May 2006, a report by the US National Labor Committee (NLC) criticized violations of foreign workers' rights in the QIZ. The report claimed, among other infringements, that tens of thousands of foreign laborers working in the zones had been stripped of their passports, trapped in involuntary servitude and forced to work without sufficient time to sleep. In the latest report at the end of 2006 the NLC noticed that there had been a "substantial improvement" since the publication of its first report, but that problems still remained in some of the QIZs.<sup>27</sup>

The conditions of work in the QIZs are generally below acceptable standards. According to the National Center for Human Rights' report of 2006, workers in the QIZs are brought in through recruitment agencies in sending countries, agencies which charge exorbitant amounts for those selected. These amounts are divided between the foreign recruitment agencies and the employers in Jordan after payment of travel expenses, resulting in a financial burden on the worker who works, in

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<sup>22</sup> Official Gazette n° 4761, 1 June 2006, p. 2039.

<sup>23</sup> The Jordan Times 7.9.2007, 11.10.2007.

<sup>24</sup> The Jordan Times Daily Newspaper 26.7.2007

<sup>25</sup> The Jordan Times 20 and 22.8.2007.

<sup>26</sup> Al Rai. Daily Arabic newspaper 12.6.2007.

<sup>27</sup> <http://www.nlcnet.org> 8.9.2007. The free trade agreement. (FTA) between the U.S. and Jordan. stipulates that labor rights in the QIZs must be enforced otherwise the country could be subject to sanctions.

most cases, for several months to pay this sum.<sup>28</sup> The report adds that it is customary for the worker to be obligated to sign an initial work contract in the country of origin while he/she is obligated upon arrival to Jordan to sign a new contract with the employer where the monthly wage is substantially less.

Passports of workers are withheld by employers, thus restricting the freedom of worker movement in violation of national and international law. In fact, withholding passports is illegal in Jordan according to Article 18 of the Temporary Passport Law no. 5 of 2003 and its amendments.

In order to remedy the poor conditions of work at the QIZs the MOL started inspection rounds in the second half of 2006, and shut down some plants that were violating laws and regulations. The Ministry also exempts thousands of QIZ workers with temporary ID cards from the fines that accumulated for those remaining in the country after their work permits have expired.<sup>29</sup>

#### **4. Foreign Workers in the Aqaba Special Economic Zone**

According to the By-law no.90 for the year 2000 pertaining to entry visa, labor and residency in the Aqaba Special Economic Zone, visit visas, transit visas, work visas, work permits and residency permits are issued by the Authority of the Zone (Article 3). The Authority shall coordinate with the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Labor, as relevant, for the issuance of visas, work and residency permits as agreed upon through memorandums of understanding (Article 4). A non-Jordanian may apply for a visit visa at any crossing point and reside in the Zone for the period stated in that visa (Article 6). The competent body shall issue a transit visa for a period not exceeding 72 hours for a non-Jordanian who wants to use the Zone as a transit from one foreign country to another or to the customs territory (i.e. the rest of the Kingdom) (Article7). Any resident in the Zone or employer therein, whether a Registered Enterprise or not, may apply to the Authority for issuance of a work visa for bringing any non-Jordanian worker into the Kingdom to work for him/her in the Zone, or for a work permit for any non-Jordanian worker in the Kingdom to work for him/her in certain cases. The work visa and the work permits issued by the Authority shall be for periods of three, six or twelve months, or for the period of the employment contract, provided that such a period does not exceed five years. Such visas or permits shall be renewable. The work visa and the work permit shall be considered as a residency permit for the period of the visa or the work permit. The holder of such shall be given (15) days to leave the Zone upon the expiration or revocation of the work visa (Articles15).

Article (15) of the By-law stipulates that all work fields in the Zone shall be open for non-Jordanian workers, provided that Jordanians workers are given priority in work opportunities. On the other hand, the number of Jordanian workers in any registered enterprise or project within the Zone, whose number of workers exceeds 5 workers, shall not, in any case, be less than 3 workers if the number of workers does not exceed 18 workers, and 30% of the total of workers if the number of workers exceeds 18 workers.

The article adds that "if there is insufficient or unqualified Jordanian manpower to work at a Registered Enterprise or the relevant project, the Board of Commissioners of the Aqabe Authority may decrease the percentage of Jordanian workers or exempt the employer from such requirements according to the bases determined in instructions issued by the Board for this purpose.

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<sup>28</sup> The National Center for Human Rights, Status report of human rights, Hashemite Kingdom of Jordan, 2006, p.54.

<sup>29</sup> The Jordan Times 11.10.2007, 18.10.2007.

## Conclusion

The memorandum between Jordan and Egypt signed in 2007 and the inspection campaign administered by the Ministry of labor proved to be successful in limiting the number of foreign illegal workers in Jordan. Nevertheless, despite the existing legislation and law-enforcement measures, the phenomenon of foreign illegal workers continues. The Jordanian authorities are now tackling the phenomenon in the QIZ's, but there has been, so far, no measures taken to detect cases of illegal foreign workers in the Aqaba special Economic Zone who fled Aqaba to look for different opportunities in other parts of the country. In addition to the measures already taken by the Government there is a need to activate the implementation of sanctions against those employers who illegally employ foreign workers or violate their rights.

Jordanian migration policies need to be reformed. In the first place, Jordanian labor law should be amended so that its provisions apply to domestic workers and workers in the agricultural sector. On the other hand, rules concerning deportation, the right to strike and the right to association need to be improved. Moreover the treatment of irregular migrants in the event of detention should be improved and mechanisms for the judicial or the administrative review of the lawfulness of detention should be established. Those detained have the right to inform their consular or embassy representatives of their detention.

Employment agencies are confined, so far, to foreign domestic workers, and there is a need to extend their services to other categories of foreign workers. More regulation of recruitment agencies is needed and those not satisfying the minimum standards should face fines or have their licenses revoked. Only MOL registered offices should be licensed to bring in domestic laborers. And commercial services offices not subject to the Ministry's laws should be barred from bringing in foreign workers.

Moreover a number of factual obstacles prevent foreign workers, especially domestic ones, from resorting to the courts, and there is a need for new mechanisms to settle disputes that arise from work contracts. The Embassies with whom the foreign workers are affiliated should play a role in any such mechanism.

The unified "special working contract for Non-Jordanian domestic workers"<sup>30</sup> endorsed by the U.N. Development Fund for Women (UNITEEM), working with the MOL since July 21,2003 should be taken seriously. This contract guarantees several rights to migrant workers including minimum wage and medical insurance, designated day off a week, rest days and repatriation when contract expires. It prohibits the holding of their passports by employers and withholding their salaries by either the employer or the recruitment agencies. The contract requires that foreign workers be paid the same salaries as Jordanians performing domestic work.

Jordan should adhere to the I.L.O. conventions no.97 of 1949 and no.143 of 1975 on expatriate workers and to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 1990 which came into force in 2003 and which is largely seen as one of the seven UN core human rights treaties. Jordan signed the United Nations Convention against Transnational Organized Crime of 2000 and ratified the additional protocol to prevent, suppress and punish trafficking in persons, specially women and children which came into force in December 2003, although the Jordanian Government should have ratified the agreement first and the protocol second.

These suggested reforms, however, are not likely to take place in the near future. Jordan, as other Arab states, has been very reluctant to adhere to human rights.

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<sup>30</sup> <http://www.migrationinformation.org>. 8.9.2007; <http://www.amanjordan.org/arabic>. 8/9/2007; N. HEYZER, "Labor Migration and Trafficking: A Gender and Human Rights approach".