

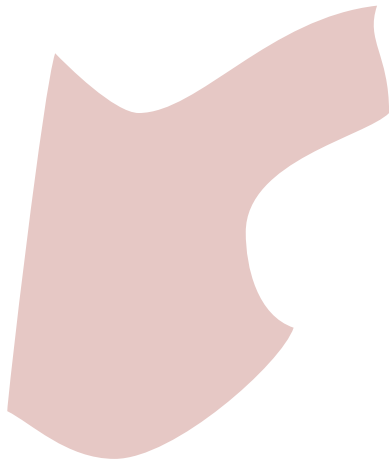


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RECEIVING COUNTRIES

Kingdom of Jordan



A. COUNTRY CONTEXT

Jordan is a middle-income country located in Western Asia with a population of 6.3 million, 80 per cent of whom live in urban centres. Recent political upheaval in the Arab region has impacted Jordan economically. Since February 2011, the country has also experienced demonstrations calling for political reforms and improved living conditions, including more than 550 labour-related protests and strikes. The Government has responded by enacting Constitutional changes that strengthened the judiciary.¹

Jordan is located at the crossroads of two major areas of instability and has therefore been heavily impacted by protracted conflicts in the Middle East. Civil war in Lebanon, and the first and second Gulf wars, caused massive influxes of refugees and migrant workers into Jordan, putting pressure on government authorities, economic and social infrastructures and local communities. In the UNDP's latest Human Development Index, Jordan received a "medium" rank.²

In the past, Jordan has been both a country of origin and destination for migrant workers. From the mid-1970s to the mid-1980s, hundreds of thousands of well-educated and highly skilled Jordanians migrated for employment mainly to oil-producing countries. Currently however, Jordan is predominantly a labour-receiving country with a stock of almost 3 million immigrants in 2010.³

1 International Labour Organization, *Decent Work Country programme (2012-2015) – Jordan* (Geneva, 9 March 2012). Available from: www.ilo.org/public/english/bureau/program/dwcp/download/jordan.pdf

2 Available from: <http://hdrstats.undp.org/en/countries/profiles/JOR.html>

3 International Organization for Migration, *Migration Facts and Figures* (webpage, n.d.). Available from: www.iom.int/jahia/Jahia/about-migration/facts-and-figures/lang/en

Human development index	Rank 95, medium human development ⁴
Stock of Immigrants 2010	2,973,000 ⁵
Annual growth rate of immigrants (2010-2015)	-5.2 migrants/1,000 population ⁶
Immigrants' share of national population	46% (2010) ⁷
Proportion of females among immigrants	49% (2010) ⁸

Many migrant workers in Jordan are women working as domestic workers, who mainly come from Indonesia, the Philippines and Sri Lanka. Additionally, there are many men and women migrants working in large factory complexes referred to as Qualified Industrial Zones (QIZ), where goods are manufactured for export.⁹ Recent statistics show that between 2004 and 2009 work permits issued to Filipinos more than doubled, reaching nearly 15,000, and work permits issued to Sri Lankans increased by 40 per cent, reaching 20,000.¹⁰

B. KEY GENDER AND HUMAN RIGHTS ISSUES

Although Jordan has taken some steps to improve the working and living conditions of its migrant workers, many are excluded from labour laws that protect employees from abuse. Migrant domestic workers in particular are subject to an immigration sponsorship system (the Kafala system¹¹) that contributes to isolation and leaves them at risk of exploitation by employers.

Although migrant domestic workers provide valuable services that are in high demand in Jordan, many report being slapped, kicked, beaten, spat at and threatened with violence in the homes in which they work. Several have fallen to their deaths in recent years in circumstances recorded as accidents, but which remain inadequately investigated and explained. In 2009, the Labour Ministry linked the attempted suicides of 14 Sri Lankan domestic workers to abusive conditions at work.¹²

4 UNDP, *Human Development Report 2011 – Sustainability and Equity: A Better Future for All* (New York, 2011). Available from: http://www.undp.org/content/dam/undp/library/corporate/HDR/2011%20Global%20HDR/English/HDR_2011_EN_Contents.pdf

5 Ibid.

6 Available from: www.iom.int/jahia/jahia/Jordan

7 Ibid.

8 Ibid.

9 Solidarity centre, *A Voice for Migrant Workers in Jordan's Export Factories*, (Manama, u.d.). Available from: www.solidaritycenter.org/content.asp?contentid=627

10 Dovelyn Rannveig Agunias, *Running in Circles: Progress and Challenges in Regulating Recruitment of Filipino and Sri Lankan labour Migrants to Jordan*, Migration Policy Institute (Washington DC, US, Singapore, July 2011). Available from: www.migrationpolicy.org/pubs/JordanCorridor-Labor-2011.pdf

11 Also known as the Kafala system (see detailed description in Bahrain country report)

12 Amnesty International, *Amnesty International Report 2010 - Jordan* (London, 28 May 2010). Available from: www.unhcr.org/refworld/country,,AMNESTY,,JOR,,4c03a81fc,0.html

Additionally, there are reports of women migrant domestic workers being beaten by representatives of recruitment agencies shortly after their arrival in Jordan, in an attempt to frighten and discourage them from running away or from making complaints about their employers. Although new safeguards were introduced in 2003 in the form of a special contract for migrant domestic workers, they appear to have had little impact in practice.

In August 2009, the Labour Law was also amended to better regulate the working conditions of all domestic workers, including migrants. New regulations prescribe maximum working hours, rights to holiday and sick leave, and domestic workers' entitlement to regular contact with their own families. While these changes were welcome as important steps in providing better protection for domestic helpers, there are still insufficient safeguards to protect domestic workers from violence and sexual abuse.¹³

Although there have been significant improvement in recent years with respect to women's rights, discrimination and harassment of women remains a concern. According to the International Labour Organization (ILO), only 14 per cent of Jordanian women participate in the labour force compared to 65 per cent of men. Jordanian women who do work earn an average monthly wage of 314 Jordanian dinar (443 US dollars) compared to 364 dinar (514 dollars) for men, which after adjusting the average number of hours, amounts to a gender pay gap of 7 per cent.¹⁴ On a positive note, the Government recently withdrew its reservation to article 15(4) of the CEDAW, guaranteeing women freedom of mobility and to choose their place of residence without requesting permission from male family members. However, the Government has indicated that it will maintain its reservation to other elements of article 15, including those guaranteeing women equality under the law with men.¹⁵

C. KEY STAKEHOLDERS

The Ministry of Labour (MoL) works to provide protection and services for migrant workers by creating rules and regulations that govern the recruitment process, setting minimum employment standards, improving labour inspectorate capacity and maintaining a system adjudication to resolve disputes. The MoL has also developed a draft Action Plan for the effective management of labour migration and protection of migrant workers based on the ILO guidelines.¹⁶ Recently, however, as part of its 2011 national employment strategy, the Government imposed quotas on migrant workers being employed in certain professions – and entirely closed others - in order to give priority to employing Jordanian nationals.¹⁷

¹³ Ibid.

¹⁴ International Labour Organization, *Decent Work Country programme (2012-2015) – Jordan* (Geneva, 9 March 2012). Available from: www.ilo.org/public/english/bureau/program/dwcp/download/jordan.pdf

¹⁵ UNIFEM, *CEDAW Success Stories – Egypt and Jordan* (webpage, u.d.). Available from: www.unifem.org/cedaw30/success_stories/index.html#egypt

¹⁶ Jordan, Ministry of Labour, *Report on the status of migrant workers in the qualified industrial zones*, (Manama, May 2006). Available from: www.carim.org/public/polsoc texts/PS2JOR005_EN.pdf

¹⁷ International Labour Organization, *Decent Work Country programme*

The Tamkeen centre for Legal Aid and Human Rights is an NGO that works to ensure human rights and fundamental freedoms for marginalized groups. Its Migrant Workers programme raises awareness about the working conditions for migrant workers and provides legal advice and representation to victims of abuse.

The Adaleh centre for Human Rights Studies is another NGO actively working to promote the implementation of CEDAW principles and enhance protections for migrant workers in Jordan through awareness campaigns, capacity-building initiatives and legal assistance.

D. RATIFICATION RECORD

The following table illustrates Jordan's ratification status of international treaties related to women migrant workers.

TREATIES	RATIFICATIONS
MWC	-
CEDAW	1 July 1992
ICCPR	28 May 1975
ICESCR	28 May 1975
ICERD	30 May 1974 a
ILO C29 Forced or Compulsory Labour	6 June 1966
ILO C87 Freedom of Association	-
ILO C97 Migration for Employment	-
ILO C98 Right to Organize and Collective Bargaining	12 December 1968
ILO C100 Equal Remuneration	22 September 1966
ILO C105 Abolition of Forced Labour	31 March 1958
ILO C111 Discrimination in Employment	4 July 1963
ILO C138 Minimum Age for Admission to Employment	23 March 1998
ILO C143 Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	-
ILO C181 Private Employment Agencies	-
ILO C182 Prohibitions on the Worst Forms of Child Labour	20 April 2000

E. COMPLIANCE WITH CEDAW

Jordan does not consider itself bound by the following provisions of CEDAW: article 9, paragraph 2 and article 16, paragraph (1) (c) relating to the rights arising upon the dissolution of marriage with regard to maintenance and compensation; article 16, paragraph (1) (d) and (g).

DISCRIMINATION

In its 2012 Concluding Observations the CEDAW Committee noted that, while the CEDAW has the force of law in Jordan it has not been given sufficient visibility as a legal basis for eliminating discrimination against women. The Committee also noted “a continuing lack of awareness among women and among the judiciary and legal professions about the rights of women under the Convention.” In particular, the Committee called on Jordan to insert the word “gender” or “sex” into the newly amended Constitution’s article 6 prohibiting discrimination.¹⁸

POLICY MEASURES

Jordan’s immigration policy requires prospective migrant workers to go through employment agencies for work in Jordan. All migrant workers are required to possess a work permit, which is renewed annually, as well as a residence permit.¹⁹ Pursuant to the Special Working Contract for Non-Jordanian Domestic Workers adopted on 21 January 2003, employers are responsible for obtaining work and residence permits for migrant domestic workers. However, some employers fail to secure or renew the necessary permits, thereby incurring fines imposed by the Ministry of the Interior. Domestic workers are required to remain in the country until the fines are paid, either by the worker or the employer. Human Rights Watch has reported on migrant workers languishing for over a year in shelters because their former employers would not pay outstanding fines. Because many of the workers had not been given their salaries, they were also unable to pay the fines themselves.²⁰

On occasion, however, the Government has reached settlements with domestic workers, or their embassies, and exempted them from the payment of fines – for example when the whereabouts of the employer were not known.

In an attempt to better protect the rights of labourers in Jordan, and better ensure that Jordanian Law complies with international labour standards, the Council of Ministers approved a number of amendments to the Labour Law No. 8 of 1996. The amendments, which came

18 CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women – Jordan* (CEDAW/C/JOR/CO/5) (Fifty-first session, 2012). Available from: www2.ohchr.org/english/bodies/cedaw/

19 Jordan, Ministry of Labour and UNIFEM, *Domestic Workers Project Booklet*, (Manama, n.d.)

20 Human Rights Watch, “Jordan: Abused Domestic Workers Stranded - Authorities Prevent Sri Lankans From Returning Home”, Munich, 8 April 2011. Available from: www.hrw.org/news/2011/04/08/jordan-abused-domestic-workers-stranded

into force on 15 August 2010, have led to greater protections for foreign workers in Jordan, as well as increased entitlements. Some of the most important changes are:

- Migrant workers are allowed to join a trade union.
- Employment contracts must be drafted in a foreign workers own language.
- Employers must pay migrant domestic workers the same minimum wage offered to Jordanians and compensate employees in cases of unfair dismissal or dismissal without notice.
- Recruitment agencies are subject to increased regulations that emphasize their obligations to the government, employers and workers, and increased fines for those agencies that do not abide by the law.^{21,22,23}

Not all of the changes, however, apply to migrant domestic workers.²⁴ The MoL's Labour Regulation No. 90 of 1 October 2009 more explicitly describes the rights and benefits to be afforded migrant domestic workers. Domestic workers are covered under the Draft Social Security Law of 2010.²⁵

TRAFFICKING AND PROSTITUTION

According to the US State Department's 2012 Trafficking in Persons Report (TIP Report), Jordan is a destination and transit country for individuals subjected to forced labour. Many women from countries in South-East Asia voluntarily travel to Jordan in search of employment as domestic workers. Upon arrival however, some have their passports withheld and their movements restricted, while being forced to work without pay and threatened with physical or sexual abuse. Jordan's sponsorship system, which requires that foreign workers rely on their employer to renew work and residency permits, places significant power in the hands of employers and recruitment agencies and increases the foreign domestic workers' vulnerability to trafficking.²⁶

Human trafficking and forced labour in Jordan is not limited to domestic workers. The country's garment industry, as well as agriculture, construction and building maintenance sectors also attract workers from other parts of Asia as well as North Africa. Some of these workers have also encountered forced labour conditions

21 Dana Adbuljaleel, "Amendments to the Jordanian Labour Law", *Newsletter of Al Tamimi & Company Advocates and Legal Consultants*, issue 236, December 2010 / January 2011. Available from: <http://altamimi.newsweaver.ie/Newsletter/1q5wiprfuvvm90wdis92cbz>;

22 UN Women, *UN Women in Action – Jordan* (webpage, u.d.). Available from: www.migration-unifem-apas.org/jordan/Unifem_in_Action.html

23 International Trade Union Confederation, *Annual Survey of violations of Trade Union Rights – Jordan – 2012* (webpage, u.d.). Available at: <http://survey.ituc-csi.org/Jordan.html?lang=en#tabs-3>

24 See 3(c) of the Labour Code No. 26 of 2010, amending Labour Code No. 8 of 1996.

25 Simel Esim (ILO) and Carole Kerbage (ESCWA), *The Situation of Migrant Domestic Workers in Arab States – a Legislative Overview*, (Bangkok, u.d.). Available from: www.unescap.org/sdd/meetings/beirut-June2011/Esim-ESCWA-situation-female-workers-vulnerable-sectors.pdf

26 US State Department, *Trafficking in Persons Report 2012 – Jordan* (2012). Available from: www.state.gov/j/tip/rls/tiprpt/2012/192367.htm

including withholding of passports, delayed payment of wages, forced overtime and verbal and physical abuse.

Jordan has made efforts to tackle human trafficking, most notably by passing an Anti-Human Trafficking Law in 2009 and creating a committee to promote public awareness on the issue. The law prohibits all forms of trafficking and prescribes penalties of up to 10 years' imprisonment for forced prostitution and trafficking involving aggravating circumstances, such as trafficking of women or children, or with the involvement of a public official. Penalties for trafficking men without aggravating circumstances are a minimum of six months' imprisonment and a maximum fine of 7,000 dollars. These penalties, however, are not considered to be sufficiently stringent to seriously deter trafficking.

The 2012 TIP report also noted deficiencies in identifying and referring victims of trafficking for assistance. Specifically it found that the Government's efforts were limited in the areas of raising public awareness, cooperating with source country embassies, and ensuring that identified victims were not penalized.

Recently however, the Cabinet did approve bylaws under which the government could establish a shelter for women victims of trafficking. Additionally, in January 2012, a multi-sectoral National Screening Team was formed, comprised of National Committee members and representatives of the Ministries of Interior, Justice, Labour, and the police, which has begun interviewing vulnerable individuals identified by embassies, to determine if they are trafficking victims.

The CEDAW Committee in its 2012 Concluding Observations welcomed the adoption of the 2009 Human Trafficking Act and the national strategy to combat human trafficking. It expressed concern however, that the act does not provide an adequate definition of human trafficking. It also noted that the law does not sufficiently provide for investigation, prosecution and punishment of trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Committee called on the government to do more to collect data on incidents of trafficking, and ensure that victims have access to quality medical care, counselling and shelter.²⁷

EMPLOYMENT

Jordan suffers from a high unemployment rate of Jordanian women (22 per cent in 2010) and persistent gender wage gaps (30 per cent in the private sector). Equality in employment is a critical area for gender equality since access to resources and other benefits are closely tied to employment. Accordingly, article 11 of CEDAW requires States parties to take all appropriate

27 CEDAW Committee, *Concluding Observations*, paras. 29-30.

measures to eliminate discrimination against women in employment in order to ensure they enjoy the same rights on a basis of equality with men.²⁸

In its 2012 Concluding Observations, the CEDAW Committee commended Jordan for adopting several legislative measures aimed at eliminating discrimination against women. The Committee made particular note of the 2008 and 2010 amendments to the Labour Code, which widened its scope of application to migrant workers, including domestic workers – referred to as “domestic helpers”. However, the Committee criticized the law for not explicitly requiring equal pay for men and women for work of equal value. Additionally, the Committee noted that, although the amended law prohibits sexual harassment in the workplace, sanctions only apply in cases where the perpetrator is the actual employer.

In 2011, the ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) also noted that the 2008 Amendments to the Labour Code did not provide for equal remuneration for men and women for work of equal value, which constitutes discrimination against women in the labour market and is contrary to CEDAW article 11.²⁹

In response, Jordan launched the tripartite plus National Steering Committee for Pay Equity to take the lead in coordinating and implementing an action plan and activities aimed at achieving pay equity for equal value of work. The Committee will be co-chaired by the Ministry of Labour (MoL) and the Jordanian National Commission for Women (JNCW). UN Women is also working with the Government in order to revise the Labour Law again and ensure that the new version fully complies with CEDAW, is rights-based, and ensures substantive equality to women domestic and migrant workers.

Additionally, Jordan has enacted several other regulations to better promote and protect the rights of women migrant workers. For example, the law previously required a domestic worker to obtain her employer’s permission before leaving the house. Failure to do so would void the employer’s financial obligations to her, including for repatriation at the end of the contract. Recent changes, however, require only that domestic workers inform their employer when they intend to leave home.³⁰

Also, since July 2011, employers of domestic workers have been required to deposit their employees’ salaries into bank accounts. The labour inspectorate has enforced this directive by requiring all employers to provide proof of the bank account and payment of wages when they complete the annual renewal process for their employees’ work permits.³¹ This helps to protect domestic workers against non-payment of wages.

28 UNIFEM, *Gender Equality Laws - Global Good Practice and a Review of Five Southeast Asian Countries*, (March 2010). Available from: http://cedaw-seasia.org/docs/Aw_GEL_incover050609Feb10.pdf

29 International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (CEACR), *Individual Observation concerning Equal Remuneration Convention, 1951 (No. 100) Jordan (ratification: 1966)*, (2010).

30 US State Department, *Trafficking in Persons Report 2012*

31 Ibid.

New regulations for domestic workers also prescribe a maximum of 10 working hours per day, one day off per week, 14 days of paid annual leave, sick leave, and entitlement to regular contact with their families.³² Despite addressing important issues, however, many of the new regulations are loosely worded and open to interpretation, increasing the chances for abuse. For instance, employers are obliged to provide “suitable” living conditions for domestic worker. However, they do not specify the exact meanings of “safe and healthy working conditions” and how to ensure “privacy” for workers who live in their employers’ homes.³³

Because Jordan has not always been able to ensure adequate protection for migrant workers’ rights, some countries have imposed bans on employment of their nationals. In January 2012, the Ministry of Labour agreed to a request by Indonesia’s Ambassador to halt the issuance of work permits to Indonesian domestic workers, and a similar request was made by the Philippine Government. However, representatives from both labour-sending countries have recently negotiated new Memorandums of Understanding (MoUs) on domestic workers’ rights with the Government of Jordan as a first step toward lifting the bans.³⁴

EMPLOYMENT CONTRACT

In an example of a robust, gender-sensitive and rights-based good practice, the Ministry of Labour promulgated a Special Working Contract for Non-Jordanian Domestic Workers on 21 January 2003. The first of its kind in the Middle East, the precedent-setting contract was developed through the joint work of UN Women and the MoL and was supported by a multi-sector, multi-stakeholder group that included other relevant ministries, the National Commission for Women, the Jordanian Women’s Union, and embassy representatives from Indonesia, the Philippines, and Sri Lanka, the three major countries of origin of Jordan’s migrant domestic workers.

The Special Working Contract is the only binding document that is acceptable for the purposes of securing a visa, as well as resident and work permits for migrant domestic workers in Jordan.³⁵

Every employer, agent, and domestic worker must sign the Special Working Contract, which lasts for two years but can be extended by signing the annexed contract upon completion. The Special Working Contract contains a number of important provisions relating to the responsibilities of employers and recruitment agents and the rights of migrant workers, including that: the employer and agency pay for a workers’ round-trip airfare, work and residency permits, and an agreed salary; the employer provides the worker with meals, clothing, accommodation, and medical care; the employer is not allowed to take the worker’s passport; the employer cannot employ the worker anywhere except the employer’s home;

32 Simel Esim and Carole Kerbage, *The Situation of Migrant Domestic Workers in Arab States*.

33 Ibid.

34 US State Department, *Trafficking in Persons Report 2012*

35 UNIFEM, *Good Practices to Protect Women Migrant Workers, report from high-level government meeting of countries of employment* (2005). Available from: www.unwomen-eseasia.org/projects/migrant/Docs/GdPracticesReportWebPubV1.pdf

the employer must not place any restrictions on the worker's correspondences; and the worker is allowed one weekly rest day.

The Special Working Contract increases the protection and rights of women migrant domestic workers by making employers and recruitment agents liable for contract violations. The MoL, in coordination with other relevant government agencies, is charged with following up on reports of violations made by individual workers and embassies on behalf of their nationals and with assisting in mediating disputes. It has also set up a hotline and email address for reporting violations, with translation services available in several languages in addition to Arabic, including Indonesian, Sinhalese, Tagalog, Chinese, and Hindi.

MINIMUM WAGE

In February 2012, the minimum wage rate was increased to 190 Jordanian dinars (268 dollars) per month. However, this does not apply to most migrant workers working in the Qualified Industrial Zones – nor does it apply to domestic workers.³⁶ Domestic workers usually receive a monthly salary between 150 and 250 dollars per month, but in some instances wages are as low as 80 dollars per month. Wages should be paid within seven days of the due date and receipts are required to be signed by both parties. However, some migrant domestic workers have reported working for up to five months without payment as the employer withheld the salary to pay for the agent's commission, which is prohibited in Jordan. Others have reported being paid only at the end of their two-year contract.³⁷ This is *prima facie* discriminatory in that it treats domestic workers, who are predominantly female, differently from all other workers in Jordan.

MINIMUM AGE

Jordan ratified the ILO C 138 (Minimum Age Convention) in 1998. Section 73 of Jordan's Labour Code of 1996 prohibits the employment of minors less than 16 years old, except as apprentices in non-hazardous jobs. Employers who violate the law are fined as much as 500 dinars (710 dollars), which is doubled for repeat offences. Children between 16 and 18 are prohibited from working in potentially hazardous jobs, limited to working six hours per day, and must receive one-hour breaks for every four consecutive working hours. Children under 18 are also banned from working after 8 pm, on national or religious holidays, and on weekends.³⁸ The minimum age for migrant domestic workers is 18.³⁹ These prohibitions,

36 Fair Wage Network, *The minimum wage increase in Jordan from 1st of February 2012*, (webpage, 31 December 2011). Available from: www.fair-wage.com/en/fair-wage-observatory/new-legal-provisions/109-the-minimum-wage-increase-in-jordan-from-1st-of-february-2012.html

37 UNIFEM, *Legal Protection for Migrant Domestic Workers in Asia and the Arab States*, (Bangkok, 2007).

38 US State Department, *Human Rights Report 2010 - Jordan* (2010). Available from: www.state.gov/j/drl/rls/hrrpt/2010/index.htm

39 UNIFEM, *Legal Protection for Migrant Domestic Workers*.

however, do not include persons who perform work outside the framework of an employment contract, and thus do not cover migrant workers employed in the informal economy.⁴⁰

REGULATION OF EMPLOYMENT AGENCIES

Increased regulation of employment agencies was an important aspect of the amendments to the Labour Law in 2009. According to new regulations, employment agencies must now provide a financial guarantee of 50,000 dinars (70,500 dollars) before receiving a licence to operate. Additionally, agencies are required to ensure that employers demonstrate good conduct and comply with the rules and regulations regarding the employment of migrant domestic workers. Regulations also stipulate that employers are responsible for 10 per cent of the total cost involved in bringing the worker to the employer.⁴¹ The government may confiscate the financial guarantee paid by the recruitment agency if it commits a violation of the rules or abuses a migrant domestic worker.

The MoL's Directorate for Domestic Workers⁴² is tasked with: monitoring employment agencies during and after registration; issuing and renewing work permits; answering queries made to the domestic workers' hotline; implementing awareness-raising campaigns regarding the rights of women migrant workers and the duties and responsibilities of employers and recruiting agents; and receiving and following up on complaints.⁴³ The MoL also works with the Domestic Helpers Recruitment Agencies Association to address any violations or complaints.

According to the US Department of State's 2012 TIP Report, in 2011 the MoL's inspectorate division investigated nine recruitment agencies, suspended 20 offices, and forwarded four cases to the Magistrates' Court with a recommendation for closure. All four offices were subsequently closed.

HEALTH CARE AND FAMILY PLANNING: ACCESS TO HEALTH SERVICES, WORK SAFETY

The Ministry of Labour enforces laws related to health and safety requirements. Migrant workers in the Qualified Industrial Zones as well as domestic workers are most susceptible to health violations including substandard housing. However, workers do not have a statutory

40 CEACR, *Individual Observation concerning Minimum Age Convention, 1973 (No. 138) Jordan (ratification: 1998)*, (Geneva, 2011).

41 Ali S Zaghal and Arda Freij-Dergarabedian, *Migration-Related Institutions and Policies in Jordan*, the Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM), (CARIM-AS 2004/04) (San Domenico di Fiesole, Italy, 2004). Available from: www.carim.org/Publications/CARIM-AS04_04-Dergarabedian-Zaghal.pdf

42 UNIFEM, *Legal Protection for Migrant Domestic Workers*.

43 UNIFEM and Friends of Women Workers Association, *Migrant Women Workers in Jordan: The Cases of Runaways* (Amman, 2007).

right to remove themselves from hazardous conditions without risking the loss of their jobs.⁴⁴

Migrant domestic workers are also required to undergo medical check-ups before entering Jordan to verify that they do not have any contagious diseases.⁴⁵ Where women are compulsorily tested for contagious diseases, including for HIV/AIDS, this is often without their consent. While they are denied access to their own test results, these are often handed over to agents and employers, leading to denial of jobs and deportation if women test positive for HIV/AIDS.

These violations of the right to health, safety and privacy are contrary to article 12 of CEDAW on equal rights to health and healthcare. However, Jordan's draft social security law (2010) does indicate under article 3 that domestic workers and agricultural workers are covered under protections relating to family allowances as well as insurance provisions covering: health; work-related injuries; unemployment; maternity; old age; disability, and death.⁴⁶ When enacted, the Social Security Law will be a robust example of a gender-sensitive, rights-based practice in line with CEDAW.

MATERNITY PROTECTION

Labour legislation has been revised to increase protection against termination of employment due to pregnancy, as well as to provide maternity-related benefits. Under Jordanian law these benefits include: 10 weeks' paid maternity leave; breaks for breastfeeding; two years' unpaid leave to accompany a husband who is transferred outside the region for work; the creation of in-house nurseries in workplaces with more than 20 married women employees; regulations defining the industries, occupations and hours in which women may not be employed and the exceptions to those regulations; and rules prohibiting the dismissal of a pregnant employee from the sixth month of pregnancy.⁴⁷ Domestic workers, however, are not covered by maternity leave legislation.⁴⁸

ECONOMIC AND SOCIAL BENEFITS

Article 13 of CEDAW obliges States parties to "take all appropriate measures to eliminate discrimination against women in economic and social life in order to ensure, on a basis of equality of men and women, the same rights." Good practices that make these rights a reality include an equal right to participate in recreational activities, sports, and all aspects of cultural life, following article 13(c) of the CEDAW.⁴⁹ Jordan provides a best

44 US State Department, *Human Rights Report 2011 - Jordan* (2011). Available from: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper

45 UNIFEM, *Legal Protection for Migrant Domestic Workers*.

46 Jordan, *Draft Social Security Law of 2010*, Arts 3 and 4.

47 Human Rights Council, *Resolution 5/1*, Working Group on the Universal Periodic Review (Fourth session, Geneva, February 2009), p. 19. Available from: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc

48 International Labour Organization, *Decent Work for Domestic Workers*, (Ninety-ninth session, Geneva, 2010). Available from: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_104700.pdf

49 UNIFEM, *Gender Equality Laws*

practice of a gender-sensitive measure to eliminate discrimination against women in social life by guaranteeing a weekly rest day for migrant domestic workers.⁵⁰ This enables them to build social and cultural bonds that can develop into a supportive community. Such bonds are critical to diminish feelings of isolation and alienation, which have harmful effects on the psychological health and wellbeing of migrant domestic workers.

Furthermore, a day off allows these women migrant workers time to seek access to information, health care, legal services, peer and social networks for care and assistance.⁵¹ Moreover, such support networks can contribute to a positive migration experience for migrant domestic workers, and may increase their willingness to renew contracts after they have completed their first two-year term. In this way, the country of employment will also benefit from migrant domestic workers with greater work experience who are more conversant in the national language, culture, and society.⁵²

EQUALITY BEFORE THE LAW

Article 15 of the CEDAW requires States parties to accord to women equality with men before the law, including laws related to freedom of association and freedom of movement.

Freedom of Association

Jordan ratified the Convention on the Right to Organize in 1968 – however in practice, freedom of association for migrant workers is curtailed. According to a 2009 European Commission progress report on human rights in Jordan, laws adopted in 2008 “increased state control over the creation of societies (prior Government approval required), their membership, their funding (no domestic or foreign funding without prior Government approval) and their functioning in general, without judicial oversight (a civil society organization can be dissolved by decision of the relevant ministry).”⁵³ While foreign workers are not permitted to form unions, they can join existing unions⁵⁴ thanks to a provision added to the draft amendments to the Labour Code in February 2009.⁵⁵ The Government has also aided in the establishment of migrant worker trade union committees, and has increased the number of labour inspectors in export-processing zones to monitor discrimination based on union activity.⁵⁶

50 International Labour Organization, *The Special Working Contract for Non-Jordanian Domestic Workers* (Geneva, 2003). Available from: www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=28

51 CARAM Asia, *APWLD NGO Consultation with the UN Special Rapporteur on Violence Against Women*, (Manila, 2007)

52 UNIFEM, *Good Practices to Protect Women Migrant Workers*

53 International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (CEACR), *Individual Observation concerning the Right to Organize and Collective Bargaining Convention – Jordan* (Geneva, 2010). Available from: http://ec.europa.eu/world/enp/pdf/progress2009/sec09_517_en.pdf

54 US State Department, *Human Rights Report 2010*

55 Working Group on the Universal Periodic Review, *Jordanian national report to the Human Rights Council*, (2009), p. 13.

56 CEACR, *Individual Observation concerning the Right to Organize and Collective Bargaining Convention – Jordan*.

The Public Gathering Law was also amended in 2008, allowing political parties and charity organizations to hold routine meetings and activities without prior approval from the Government. While the Government still must grant approval for demonstrations, if the Governor's Office does not respond to requests within two days they considered granted.

Restrictions upon the freedoms of assembly and association for women migrant workers constitute violations of article 15 of CEDAW on equality before the law, including laws relating to freedom of assembly and association. However, amendments to the Labour Code allowing migrant and domestic workers to join unions and demonstrate signify gender-sensitive, rights-based good practice in action.

Women's Access to Justice

Jordan has a range of measures to assist women migrant workers to access the justice system.

Embassies and consulates have played a crucial role in providing shelter for abused migrant domestic workers. According to the US Department of State Human Rights Report, during 2009 an estimated 300 domestic workers from the Philippines, 275 from Indonesia, and 400 from Sri Lanka took shelter at their respective embassies in Amman. Most reportedly fled forced labour conditions, including unpaid wages, sexual violence and physical abuse. The Jordanian Government facilitated access to justice by created a working group to individually examine cases and even waived fines for some who had overstayed their visa.⁵⁷

Migrant domestic workers whose rights have been violated can also file complaints with the Directorate for Domestic Workers against recruitment agencies. Free legal aid is available to migrant workers,⁵⁸ and the MoL has the authority to close down agencies that are found to violate the law. However, although the Ministry conducts regular inspection of recruitment agencies it has no power to follow up on payment of salaries or working hours.⁵⁹ Resolving disputes amicably with the assistance of a recruitment agency or embassy is encouraged as a first measure before resorting to the judicial system, where cases can be costly and may take years to be concluded. Migrant workers may also report cases of abuse or assault to the police.⁶⁰

Complainants can also contact Jordan's National Centre for Human Rights, in person at the office, or by calling either the office or a 24-hour hotline.⁶¹ UN Women's Regional Office for Asia and the Pacific noted that the existing complaint mechanisms have not thus far registered many cases of violations, even though NGOs report that violations exist. There therefore appears to be a need to support the Government in establishing a complaint system which is also linked to the National Commission for Human Rights for greater checks and balance.⁶²

57 US State Department, *Human Rights Report 2010 - Jordan*.

58 Ali S. Zaghal and Arda Freij-Dergarabedian, *Migration-Related Institutions and Policies in Jordan*.

59 UNIFEM, *Legal Protection for Migrant Domestic Workers*.

60 Jordan, Ministry of Labour and UNIFEM, *Domestic Workers Project Booklet*.

61 Available from: <http://www.nchr.org.jo/english/ElectronicServices/ComplaintForm.aspx>

62 UNIFEM, *Legal Protection for Migrant Domestic Workers*.

Jordan's Ministry of Social Welfare and Family Protection also operates a hotline for victims of violence, sexual exploitation or harassment.⁶³

Additionally, a government-run shelter for abused women provides psychological and medical services to a small number of foreign domestic workers who have been sexually assaulted by their employers and subsequently referred to the shelter by the Family Protection Department of the Public Security Directorate. Many of these domestic workers are likely trafficking victims.

Despite these gender-sensitive approaches to ensure access to justice, as noted above the Government does not adequately ensure that identified victims are not penalized for unlawful acts committed as a direct result of being trafficked. Victims are often arrested and detained if they are unable to produce valid residency documents or when their employers file false claims of theft against them.⁶⁴ The threat of fines, detention and deportation means fewer abused workers will leave their employers, leaving them vulnerable to prolonged situations of human trafficking.⁶⁵

REDRESS FOR VIOLENCE AGAINST WOMEN

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) recently reported concern about the prevalence of violence against women in Jordan, the absence of a specific law protecting women, and the lack of prosecution and punishment of perpetrators of violence including domestic violence. The Committee was concerned that social attitudes, especially those of law enforcement officials and the judiciary, may deter women from reporting cases of violence against them.⁶⁶

The CEDAW Committee has also expressed concerns about the insufficient number of accessible shelters and crisis centres for female victims of violence in both urban and rural areas in Jordan. However, it did note the establishment of the Family Reconciliation Centre as a refuge for women fleeing abusive situations and the preparation of a draft law to give non-governmental organizations licences to establish and run shelters. The Committee was also concerned about the possible promotion of reconciliation over women's protection and safety by the Family Reconciliation Centre, as well as the continuing practice of placing abused and at-risk women in protective custody and depriving them of their liberty. It called upon Jordan to replace the practice of protective custody with other measures to ensure that women are protected while their liberty is upheld, such as transferring them to safe shelters like the Family Reconciliation House established in the country in 2007.⁶⁷

63 UNIFEM, *Good Practices to Protect Women Migrant Workers*

64 US Department of State, *Trafficking in Persons Report 2010*

65 Ibid.

66 International Labour Organization, Committee of Experts on the Application of Conventions and Recommendations (CEACR), *Individual Observation concerning the Worst Forms of Child Labour Convention, 1999 - Jordan*, (Geneva, 2011).

67 CEDAW, *op. cit.* (2007)

F. ANALYSIS AND CONCLUSIONS

The Jordanian women's movement has made a number of important gains in the country, including the publication of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the official gazette, which gave it the force of law. Additionally, Jordan has adopted several gender-sensitive and rights-based policy reforms for migrant workers including:

- The Special Working Contract for Non-Jordanian Domestic Workers.
- Amendments to the Labour Code to cover informal workers, including migrant domestic workers. Since 2008 the Government has introduced regulations regarding the rights and duties of domestic workers, employers, and recruitment agencies. These include requiring employers to pay salaries into a bank account, and provide medical insurance and 14 days of medical leave, in addition to 14 days of annual leave. Migrant domestic workers now have maximum daily working hours, and a weekly rest day.
- Inspection of recruitment agencies and closure of those that fail to comply with the Labour Code or domestic worker bylaws, or that have complaints filed against them.
- Free legal aid for migrant workers.
- A National Strategy and Action Plan to Combat Human Trafficking (2010-2012) that includes provisions for a specific visa to allow human trafficking victims to receive residency and work permits while they pursue a legal case.

UN Women has supported efforts for inclusion of women migrant workers in the Labour Code. Not only did this result in the formulation of the Standard Working Contract, the Government also established a monitoring committee to assess the situations of women migrant workers in employers' houses. Media campaigns have raised awareness in this destination country regarding the rights of migrant workers.

In the Covenant of Ethical Conduct and Good Practices, also developed with support by UN Women in 2005, recruitment agencies of nine Asian countries including Jordan agreed on far-reaching business standards geared towards protecting women migrant workers, especially domestic workers. Financial exploitation and deliberate misinformation of these women by illegal recruiters lead not only to economic ruin, but also to physical and sexual violence. Through the Covenant, recruitment agencies commit themselves to: embarking on information campaigns for migrant workers and employers; providing social security and insurance programmes for migrant workers; and establishing resource and welfare centres in countries of destination.

In Jordan, as in other countries, the substantial gap between laws and policies on paper and in practice must be closed to fully empower all women, including migrant workers. The Government has been urged to enforce legal protections such as regular salary payments, a maximum 10-hour working day and a weekly day of rest to curtail abuse by employers and recruitment agencies.⁶⁸ Also, "honour killings" of women suspected of illicit relationships

68 Amnesty International, *Isolated and Abused: Women Migrant Domestic Workers in Jordan*, (webpage, 30 October 2008). Available from: <http://www.amnesty.org/en/news-and-updates/report/isolated-and-abused-women-migrant-domestic-workers-jordan-20081030>

remain a persistent problem. There were 12 such recorded killings in Jordan between January and November 2010. Often the perpetrators of these killings have received only lightly punishment by police and the courts. There have been several attempts to introduce harsh penalties for such “honour crimes”, but, even with the strong backing of the royal family, these attempts have been rejected by Jordan’s Lower House. In May 2010, the Government decreed amendments to the penal code to ensure that perpetrators of “honour” crimes receive the full penalty of the law.

Furthermore, Jordan needs to enforce the legal protections for migrant domestic workers it has put in place over the past three years. Rights groups such as Human Rights Watch and the Tamkeen centre for Legal Aid have pointed out that despite new protections for migrant domestic workers such as regulated working hours, weekly days off, and the criminalization of human trafficking, enforcement remains negligible. Human Rights Watch suggests five key areas for action to give more meaning to the various reforms:

- 1) All employers and domestic workers should know their legal rights and obligations. Many domestic workers have been exploited in their countries of origin and are unfamiliar with Jordan’s culture and laws. The government should provide migrant domestic workers have a copy of their contract and orientation upon arrival. UN Women would add that this orientation should be gender-responsive and rights-based, as well as culturally and linguistically appropriate.
- 2) The MoL should prioritize implementation of a 2011 ministerial decision obliging employers to pay domestic workers’ salaries into bank accounts, which will make it harder to cheat workers out of their wages, and easier to resolve salary claims quickly and fairly. Non-payment of salaries is a frequent complaint and despite the creation of a domestic workers’ committee in 2010, salary disputes often take months to resolve.
- 3) The MoL, at the time that HRW’s recommendations were written, only had five labour inspectors assigned to investigate the situation of domestic workers who rarely used their legal authority to visit homes. Inspectors told Human Rights Watch that they had never used their power to fine employers who require domestic workers to work seven days a week without rest for 16 hours a day (a common scenario, the research found), despite being aware of such instances. The Ministry should increase the number of inspectors and evaluate their performance in rigorously enforcing the law. And Jordanian prosecutors should investigate cases involving domestic workers that amount to forced labour or trafficking under the 2009 trafficking law.

Authorities should also bear in mind that abuse cases are very difficult for migrant domestic workers to report to police in instances where the worker cannot leave the house to make the complaint.

- 4) HRW recommended that Jordan should change the 2009 Labour Ministry regulation and provision in the Standard Working Contract prohibiting a worker from leaving the home without her employer’s consent, even after working hours. As stated earlier, this reform has been enacted.
- 5) Jordan must make it easier for abused domestic workers to return home. Such women who escape typically return to recruitment agencies or embassies, or start working in the informal economy. Their passports are often withheld by their former employers. In many cases, the escaped worker overstays her legal residency because the employer never

applied for a residency permit as required under the law. Since Jordanian law imposes fines for overstaying one's residency, these domestic workers accrue huge fines they cannot pay. The law should be reformed to hold the employer accountable while allowing the worker to promptly return home.

Jordan has proven itself to be a leader in protecting migrant workers among the Arab States and major destination countries for domestic workers. In June 2011, Jordan supported a new international labour treaty to protect domestic workers. The true test of these reforms will be whether Jordan closes the gaps between laws and policies on paper and in practice. "If so, the improvement in migrant domestic workers' rights would be revolutionary," according to Human Rights Watch.⁶⁹

G. RECOMMENDATIONS

CEDAW Committee Recommendations include asking the Government to:

Policy Reform

- Enact a comprehensive gender equality law that includes a definition of discrimination against women in line with article 1 of CEDAW.
- Enforce a minimum wage rate that applies to women migrant domestic workers.
- Address the differences in entitlement to maternity leave between the public and private sectors. The CEDAW Committee also recommends that the Government review ILO recommendations concerning maternity leave, adapt the national situation to these recommendations and consider coverage of such leave through social insurance schemes to prevent private employers from discriminating against women in recruitment.
- Amend the Anti-Human Trafficking Law 2008 to ensure that penalties prescribed for labour-trafficking offenses are sufficiently stringent.
- Amend the Labour Code to ensure that the new version fully complies with CEDAW and is rights-based, ensuring substantive equality to women domestic and migrant workers, and includes sufficiently stringent penalties for forced-labour offences.
- Reform the Labour Code again to prohibit discrimination against women and sexual harassment, and to guarantee female employees the same benefits on the same terms as male employees, as well as access to redress mechanisms.
- Update the Special Working Contract to include protections on maximum working hours, overtime pay, the right to privacy and freedom of mobility.
- Change section 73 of the Labour Code, which prohibits the employment of minors under 16, to include those who work outside an employment contract and are employed in the informal economy.

69 Christoph Wilcke, Researcher, Middle East & North Africa division, Human Rights Watch, "Migrant Domestic Workers in Jordan: Where There's a Will, There's a Way", *Huffington Post*, (Washington DC, 12 October 2011). Available from: http://www.huffingtonpost.com/christoph-wilcke/migrant-domestic-workers-_b_1007369.html

Welfare Benefits for Migrant Workers

- Provide sufficient temporary shelters for women migrant workers who wish to leave abusive employers, husbands or relatives and provide facilities for safe accommodation during trials.

Enforcement

- Ensure that employers and recruiters do not confiscate or destroy women migrant workers' travel or identity documents. The CEDAW Committee also recommends that the Government end the practice of forced seclusion of women migrant workers, especially where domestic workers are locked up employers' homes. Police officers should be trained to protect the rights of women migrant workers from abuses of their freedom of movement.

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