

Labor Rights in Jordan:

By:

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Introduction

This paper aims at shedding light on the labor rights in Jordan, particularly for those who are working in the informal sector, through identifying the factors that impede them from enjoying such rights and, thus, coming up with the appropriate recommendations in this area.

Even though there is lack of official data concerning the size of the informal sector in Jordan, there is an increasing perception that this sector is widening. This is supported by the low participation rate in the Jordanian labor force which is estimated by the Department of Statistics at no more than 25.0 percent. Moreover, some unofficial studies indicate that the informal sector accounts for about 20.0 percent of the Jordanian GDP and employs about 25.0 percent of the workers. Consequently, the integration of this sector into the formal economy and developing its activities and practices will positively affect the economic activity and improve the welfare of the workers in the informal economy through preserving their rights and improving their capacities by offering training programs which meet their occupations.

The informal sector usually comprises individual activities and small enterprises which are subject to the regulations of labor, including agricultural activities, household activities, maintenance, transportation, real estate brokerage, peddler's activities, the activities of the family members who work collectively on various activities and they are not paid on regular basis as well as the small businesses which are not covered by the regulations of the Social Security Corporation. In most cases, the activities of this sector have small capital, use primitive production and marketing methods and employ unskilled workers. In addition, there are several problems facing the workers in this sector, such as taking unwarranted advantages of them by the employers, employing children, depriving workers from training, health insurance, social security amongst others.

The Reasons behind the Expansion of the Informal Economy

It is worth noting that the expansion of the informal economy is becoming a global phenomena emerging due to several economic, social and political factors. As for Jordan, the main factors behind this phenomenon can be demonstrated as follows:

- The small size of the economy and its limited ability to create sufficient job opportunities to absorb the new entrants to the labor market who are ranging between 50-60 thousand annually. Accordingly, the unemployment rate is relatively high; standing at more than 14.0 percent.
- Increasing the incidence of poverty in the country, which stood at 14.7 percent in 2005. Moreover, the official statistics revealed that the incidence of poverty in rural areas was 22.8 percent compared with 18.7 percent in urban areas, and the national poverty line stood at JD 504 (equivalent to about US\$ 711).

- High rate of population growth due to the receiving waves of refugees from neighboring countries, especially Iraq and the West Bank and Gaza.
- The mismatch between the outputs of the educational and training systems and the requirements of the labor market.
- Tax evasion and the complicated procedures for business registrations and licensing.
- The development dualism between rural and urban which pushes people from villages to big cities such as Amman, Zarqa and Irbid. Due to limited capacity of the private entities to employ those migrants they tend to work in informal activities.
- The acceleration of the privatization and restructuring programs

The Main Characteristics of the Workers in the Informal Economy

Contrary to the situation in the formal economy, the workers in the informal sector do not obtain licenses or registration certificates to operate business. Moreover, they do not pay the fees for social security or health insurance as per the existing regulations. In addition, the entry and exit to this kind of economy is very easy and flexible. As for the size of capital employed by the units within the informal economy, it is noted that more than 65 percent of these units have less than JD 500 of operating capital. Finally, it is note that family owned enterprises represent the majority of enterprises in the informal economy; constituting about 77.0 percent. As for the characteristics of workers in this economy, they can be summarized as follows:

- They are not subject to the Labor Law No. 8 for 1996. Accordingly, they are deprived from the benefits and rights guaranteed by the Law.
- Lack of the occupational safety standards
- Non-coverage by the Social security
- Low educational attainment and poor opportunities for training and rehabilitation. In this regards, it is worthy to note that 56.3 percent of the workers in this economy do not have the Tawjihi certificate (the highest degree in higher school).
- There are no laws and regulations to cover the workers in certain sectors such agriculture and agriculture, which employs large numbers of workers, particularly non-Jordanians.
- Poor and harsh working conditions, including long working hours, low wages (below the minimum wage of JD 105). In this regards it is worth indicating that

34 percent of male labor and 11 percent of female labor work on average between 9-16 hours a day, while the Labor Law specified the working hours by 8 hours per day.

- Flexibility of movement within the activities of the economy as well to and from these activities.
- The majority of worker in the informal economy, about 82.9 percent, are in the age category of (20-49) years.
- The Geographical distribution reveals that the central, northern and southern regions accounted for 57 percent, 24.9 percent and 18.1 percent of the workers in the informal sector, respectively.
- The head of families constituted about 60 percent of those working in the informal economy.

The Effects of the Informal Economy

Despite the fact the this economy suffers from economic and social problems and challenges, particularly in the area of labor rights, it can be argued at the same time that this sector contributes to the economic and social development through creating job opportunities and generating income. The positive and negative effects of this economy can be classified as follows:

A- Positive effects:

- Reducing unemployment rate and poverty incidence through creating job opportunities.
- Employment in this sector is considered as a reserve for the formal sector during periods of economic recovery; store of excess employment during downturn.
- Supplying the formal sector with many necessary goods and services.
- Reducing the cost of living for the poor through providing goods and services at low prices.

B- Negative effects:

- The informal sector could be used as a venue for money laundering.
- Workers in this sector are deprived form the rights and benefits guaranteed in the Labor Law in addition to their deprivation from the social security.

- The workers in this sector are unable to meet the fast pace technological developments in their methods of production. In effect their productivity will continue to be low.
- This sector deprives the government from an important source of revenue due to the fact that the activities in this sector are not taxed.
- The activities of this economy are not reflected in the GDP, which gives inaccurate estimation on the size of the economy and on the developments in the economy, including rates of economic growth.
- Unjust competition due to the fact that the good and services produced in the informal economy are exempted from all taxes and fees.
- Encourage the foreign labors to work in the activities in the informal economy with having the required permissions to work in the country.

Labor Rights in Jordan

The workers in Jordan enjoy wide ranging rights and benefits as stated in the constitution and other related laws and regulations. The Labor Law No. 8 for 1996 guarantees to the right of workers in the private sector while the Civil Service By-Law guaranteed to the right of civil servants. However, in light of the paper's purposes we will confine our analysis to the rights of labor in the private sector as stated in the existing regulations and we will point out the shortcomings in these regulations as well as the problems of not enforcing them:

First: Labor Rights in the Constitution:

Article No. (6) of the constitution states that “Jordanians shall be equal before the law...The Government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquility and equal opportunities to all Jordanians”. Moreover, Article No. 23 states that “work is the right of every citizen, and the State shall provide opportunities for work to all citizens by directing the national economy and raising its standards. The State shall protect labor and enact legislation therefore based on the following principles and every worker shall receive wages commensurate with the quantity and quality of his work, the number of hours of work per week shall be defined. Workers shall be given weekly and annual days of paid rest. Special compensation shall be given to workers supporting families and on dismissal, illness, old age and emergencies arising out of the nature of their work. Special conditions shall be made for the employment of women and juveniles Factories and workshops shall be subject to health safeguards Free trade unions may be formed within the limits of the law”.

Second: Labor Rights in the Labor Law No. 8 for 1996

- ***Prohibition of abusive dismissal:*** In its Article No. (25), the Labor Law prohibited the abusive dismissal stating that “ in case the competent court shall arrive at a conclusion pursuant to a case filed by the labor within sixty days as from the date of his dismissal that the same has been abusive and in breach with the provisions of this Law, then it may deliver an order to the employer instructing him to return the labor to his principal work or to pay him a compensation in addition to a notice consideration and other payable sums as provided in Articles (32) & (33) of the current Law provided that the amount of the compensation shall neither be less than the salary of three months nor be more than six months which shall be computed on the basis of the last salary received by the labor”.
- ***End of Service Compensation:*** The Labor Law stated clearly that emphasized on the right of the workers for such reward. In the Article No. 32, the Law states that “the labor who works for an unlimited term being not subject to the provisions of the Social Security Law whose service would be terminated for any reason whatever shall be entitled to get a service expiry reward at the rate of a month salary for each year of his actual service”.
- ***Fixing the Working Hours:*** The Law specified the number of daily working hours by 8. If the worker chooses to work for overtime he/she should be awarded an extra remuneration. In this regards the Law, in Article No. 56 states that “the normal working hours shall be eight hours per day provided that the working hours shall not exceed forty eight hours per week to be distributed on six days at most of which the time dedicated for taking lunch and break shall not be computed. However, the working timed shall not exceed as aforementioned except for the cases provided for herein”. As for overtime, the Article No. 59 states that “the labor may be caused to work for more than the normal working hours upon his consent provided that the labor shall receive a remuneration for the overtime working hour that shall not be less than 125% of his normal remuneration. In case the labor shall be working on his weekend, the national days or the official holidays, then he shall receive an extra remuneration for such day that shall not be less than (150%) of his normal remuneration”.
- ***The Weekend:*** Article No. 60 in the Labor Law states that “the Friday of each week shall be considered the weekend for the labor unless the nature of the work shall require otherwise; the labor may gather his weekends and obtain the same within a term that shall not exceed one month. The weekend shall be granted to the full paid labor unless he shall be working on a daily or weekly basis, then he shall be entitled in both cases to receive the remuneration of the weekend in case he shall be working six consecutive days prior to the day fixed as a weekend

while he shall be entitled to such remuneration pro rata the days on which he shall be working through the week in case the same shall be three days or more”.

- ***The Annual Leave, Sick Leave, Maternity Leave and other Leaves:*** Article No. 61 in the Law states the following “Each labor shall be entitled for a full paid annual leave for fourteen days per year unless it shall be agreed to be more than the same provided the term of the annual leave shall be twenty one days in case his service for the same employer shall last for five consecutive years. However, the national days, religious anniversaries and weekends shall not be considered of the annual leave unless the same shall occur through the same. In case the service of the labor shall not be amounted to one year, then he shall be entitled for a paid leave pro rata the period through which he has worked per the year”. In addition, Article No. 61 in the Law states that “Each labor shall be entitled to a sick leave the term of which shall be fourteen days per year paid in full pursuant to a report made the physician appointed by the establishment. However, the same may be renewed for another term of fourteen days paid in full in case he shall be a resident patient at any of the hospitals and for half of his remuneration pursuant to a report made by a medical committee appointed by the establishment being not accommodated at any of the hospitals”.

Moreover, it is noted that the Law gave the women the right for maternity leave as well as a leave to look after her children. In this area, Article No. 70 states that “the working woman shall be entitled to get a motherhood leave fully paid before and after giving birth the total term of which shall be ten weeks provided the term that shall be spent of the same after giving birth shall not be less than six weeks for which she may not be caused to work before the expiry of such term”. In addition, the Article No. 77 gave the working woman the right for a leave to look after her children; stating that “the woman who works for an establishment that hires ten labors or more shall be entitled to an unpaid leave for a term that shall not exceed one year to dedicate her time for upbringing her children after which she may get back to her position”. The Law went beyond that to emphasize that the employers should provide a suitable place for the children of the working woman; stating in Article No. 72 that “the employer who hires at least twenty married female labor shall provide a suitable place under the custody of a baby sitter qualified for looking after the children of the working women whose ages are less than four years old provided the number of the same shall not be less ten children”.

Not only this but also the Law gives the workers the right to get extra leaves for certain occasions such as pilgrimage, joining university for education. In this regards Article No. 66 states the following “**a**-Each labor shall be entitled to fourteen days leave per year fully paid in any of the following cases: 1- In case he shall join a course for the labor education appointed by the Ministry pursuant to the nomination of the employer or the director of the establishment in coordination with the related union. 2- For performing the pilgrimage provided that the labor has worked at least five

consecutive years for the employer. However, such leave may not be granted except for once through the term of service. **b-** The labor shall be entitled to an unpaid fourteen days leave in case he shall officially join an accredited university, institute or college for the purposes of study”.

- **Banning the Hiring of Children:** In the Article No. 73, the Law states that “Without prejudice to the provisions related to the vocational training, under no circumstance shall the juvenile who has not reached the sixteen years old may be caused to work in any manner whatever”.
- **Establishing Professional Associations:** The Labor Law guarantees the rights of workers to establish professional associations; article No. 97 of the Law states that “workers in any profession can establish their own association and those who are working in the profession have the right to join if they meet conditions”.

The Shortcoming in the Legislations for Labor Rights:

Despite the fact that the existing legislations guaranteed several rights for workers, it can be argued that there are some shortcomings in these legislations, particularly for those who are working in the informal economy. Moreover, there are shortcomings concerning the enforcement of the rights which have been stated by the legislations. Such shortcomings can be summarized as follows:

First: Shortcoming Concerning the Labor Rights in the Informal Economy

- The analysis of the Labor Law reveals that its provisions address the right of labor who are working in the formal sector. However, those who are working in the informal sector are not covered by the Labor Law. As a matter of fact, article No. 3 of the Law states explicitly that “The provisions of the current Law shall be applied to all the labors and employers excluding: **A-** Public employees and those working for municipalities. **B-** The members of the employer family who are working for his projects free of charge. **C-** Servants who are working for houses, their gardens, the cooks of the same and those of similar capacity. **D-** Farming labors except those determined to subject to the provisions of the current Law by the Prime Ministry pursuant to a recommendation of the Minister”. Therefore, the workers in the informal economy do not enjoy the rights and benefits stated in the Law such as End of Service compensation, several kinds of leaves, such as annual leave, sick leave, maternity leave and other leaves, protection from abusive dismissal, working for fixed working hours.
- Given that the workers in the informal sector are not covered by the Labor Law means that they do not have the right to establish or join professional associations or labor unions.

- The Labor Law discriminates between Jordanian and non- Jordanian labor in the area of establishing or joining professional or labor associations; as article no. 108 in the Law states that “the founder of any of the employers societies and the labors unions as well as the applicant for joining the same shall meet the following conditions: 1- To be of the Jordanian Nationality....”.
- The workers in the informal sector are not covered by the Social Security Law; Article No. 4 of the Law states that “The provisions of this Law shall not apply to the following categories...the labourers whose relationship with the employer is irregular. The Board shall decide terms and conditions that govern considering the work relationship to be regular”. Moreover, the same article states the following “...application of insurance on the following categories of labourers shall be suspended, until the Council of Ministers upon a recommendation from the Board shall decide their application:1. The labourers employed in agricultural, forest or pasturage works, except for those working on mechanical machines used in such works, permanent irrigation works, or those employed by the government or the public institutions belonging thereto, 2. Sailors and fishermen and 3. Housemaids and the like”. Having said that, it is worth noting that the Social Security Corporation encourages workers to join the SSC through the voluntary scheme; the article no. 8 of the Law states that “ the Jordanian laborer who works for an employer or is being self-employed, whether residing inside the Kingdom or abroad, or the Jordanian insured person who becomes uncovered by the provisions of this law shall have the right to continue voluntarily to be covered under the insurance against old age, disability and death, provided that he/she shall pay in full the contributions due from the employer and the insured, in accordance with the regulations decided by the Board”. However, in this case, the worker should pay the whole contribution which amounts to 14.5 percent of his wage; a ratio that can be considered as prohibitive.

Second: Shortcoming Concerning the Labor Rights in the Formal Economy

- The Labor Law of restricts the rights of workers to practice the right to strike in various forms. In article no. 134, the Law states that “it shall not be allowed that a labor may strike or that an employer may close his establishment in any of the following cases: a- In case the dispute shall have been referred to the Reconciliation Representative, the Council of the same or the Labor Court. b- Through the term in which any settlement shall be valid or any judgment shall be applicable and that the strike or the closing shall be related to issues included in such settlement or judgment”. Moreover, article no. 135 states the following” a- The labor may not strike without giving a notice to the employer at least fourteen days prior to the date fixed for the same which term shall be doubled in case the work shall be related to any of the public interests services. b- The employer may not close his establishment without giving a notice to that effect to the labors at

least fourteen days prior to the date fixed for the same which term shall be doubled in case the work shall be related to any of the public interests services. c- The terms and the other measures of the strike and closing shall be set pursuant to a bye-law to be issued to that effect”.

- The slow pace of the Wage Authority and the Judiciary in settling labor disputes in spite of the explicit provisions in the Labor Law that labor cases are urgent.
- In spite of the provisions in the Labor Law which prevents child labor and set the minimum age for hire, the case studies indicate that the follow-up for the legislature implementation is still either non-existent or very weak. In a field study conducted by the National Center for Human Rights in 2006, the results support the argument of the increase in child labor. It also indicated that 16% of the children earn wages between 10 – 50 JDs per month, and that the working hours range between 10 and 12 hours a day. It is worth noting that the aforementioned study did not include children working in agriculture.
- Domestic servants are continually being forced to work long hours without one day of rest per week, and are subjected to harsh and inhumane treatment. This is in addition to other violations, such as passport withholding.
- The labor in the qualified industrial zones (QIZs) are facing several problems, including:
 - The investors do not pay wages on time
 - In several cases of plant closures the employees did not receive their due wage for several months
 - Foreign laborers at the QIZs are not covered by the Labor Law and they are not allowed to join labor unions
 - It is customary for the workers, upon their arrival, to be obligated to sign contracts with the employer, which are different from the initial ones signed in the country of origin in terms of salary and other benefits.
 - Workers are forced to work more than 8 hours per day without the payment for the extra working hours.
 - In many instances, work spaces do not enjoy a healthy environment according to the special international criteria
 - The administrations of some plants do not complete the legal procedures for workers to obtain work and residence permits, thus subjecting them to the danger of deportation at any time according to the Residence Law.

This constitutes a violation of the signed work contract and a violation of the law and regulations.

- As mentioned above, the Labor Law provisions provided the working women with special benefits which might not be universally shared around the globe. Nonetheless, there exist some legislative and social barriers which preclude the expansion of female participation in the labor force. Indeed, article no. 69 in the Labor Law specified some limits to be applied on the hiring of women as follows “the following shall be set pursuant to a resolution to be made by the Minister after inquiring about the opinion of the competent official parties:
A- The industries and works for which women may not be hired.
B- Times at which women may not be caused to be working and the cases excluded from the same”.

Economic and Social Consequences of Adjusting the Conditions in the Informal Economy:

In light of the above, it can be argued that the labor rights in Jordan suffer from shortcomings and violations, particularly for those working the informal economy who lack the basic rights due the exclusion from the Labor Law and the Social Security Law, as well as the inadequate working conditions, as pointed out in the case of the QIZs. Consequently, public, private and civil society institutions are requested to work together towards improving these conditions and ensuring that all workers, whether local or foreigners, in the formal or informal sectors are getting their rights. This will have positive implications on the performance of the economic sectors, and will improve their efficiency and competitiveness. This can be demonstrated as follows:

Economic Side: As indicated before, the size of the activities in the informal economy is estimated to be around 20 percent of GDP. Further, the activities in this sector play an important role in providing goods and services which supports the supply side in the economy. Moreover, these activities contribute in creating job opportunities and generating income, which, in turn, expand the demand side of the economy. Consequently, the regulation of this sector will enable its activities to benefit from the opportunities and advantages offered by the public and private institutions for the Micro and Medium projects, including financing, training and rehabilitation. On the other side, the government revenues will increase as a result of widening the tax base after including the activities of this economy and collecting the regular licensing and registration fees.

Social Side: The Informal economy absorbs about 25 percent of the labor force in Jordan. Therefore, the regulation of the informal economy will result in several positive implications on the social front including the contribution to combat poverty and reduce the rate of unemployment. Moreover, the regulation of the informal economy will help in improving the standards of living for the workers, whether Jordanians or foreigners.

Recommendations:

- There is an urgent need to introduce several amendments on the existing Labor Law No. 8 for 1996; namely:
 - Amending article no. 3 to cover the workers in the informal economy by the provisions of the Law.
 - Eliminating the discrimination between Jordanian and non-Jordanian laborers. This includes, amongst others, amending article no. 108/c which states that the founder of any of the employers' societies and the labor unions as well as the applicant for joining the same shall be of the Jordanian Nationality.
 - Revising the articles nos. 134, 135 and 136 which restrict the rights of workers for strikes.
 - Improving the procedures at the courts and the Wage Authority to quickly settle labor disputes.
 - Enforcing the article no. 73 which prevents the hiring of children.
 - Linking the minimum wage with the consumer price index or any other relevant indicator.
- Strengthening the supervision role of the Ministry of Labor to enforce the provisions of the Labor Law and protect the rights of labor, through the following:
 - Improving the efficiency of the Ministry's procedures in the areas of monitoring and inspection to stop the violations by the employers whether in the small enterprises or the QIZs.
 - Taking the necessary actions to protect the rights of laborers in the QIZs.
 - Enforcing the minimum wage at the QIZs
- Amending the Law of Social Security to include the workers in the informal economy.
- Enforcing the provisions of the Passports Law which prohibits the withholding passports.
- Offering training and rehabilitation programs for the workers in the informal sector to improve their productivity and help them in meeting the requirements of the labor markets.
- Strengthening the role of the NGOs in the area of labor rights, particularly for those who are working in the informal economy. This can be achieved through cooperation and coordination with the related international and regional institutions, such WLO and the Union of Arab Labor Associations.
- Establishing a data bank at the Department of Statistics on the activities in the informal sector to start issuing official data in this regards

