

Towards Building a Human Rights-Based Approach to the Kafala System for Domestic Workers in Jordan

Policy Paper



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Introduction

Jordan has relied for many years on recruiting female workers of multiple nationalities. These workers are characterized by being young and with a low level of education. Because this group is often not properly trained or qualified, their chances of obtaining better jobs are limited. Their work is mainly concentrated in the agricultural and construction sectors, in addition to domestic work.

These general characteristics provide them with a competitive advantage compared to local workers. This is because their lifestyles and consumption are relatively modest, and they can adapt to difficult working conditions and low wage levels. However, these conditions make them more vulnerable to exploitation, highlighting the urgent need for a human rights-based approach to protecting them and promoting their rights in the workplace.

The procedures for a female worker to enter Jordan require following a set of steps that have been applied for years, by the regulatory system for offices that recruit non-Jordanian domestic workers. For example, the presence of an employer is required to obtain approval for the female worker to enter Jordanian territory. Under this system, every migrant female worker wishing to work in Jordan must contract with a specific employer, which prohibits her from moving or working except for her employer.

This has resulted in many domestic workers being exploited by their employers. Their passports are often confiscated, wages withheld, and they are forced to work long hours or for multiple employers. Additionally, they appear to be subject to financial extortion in exchange for renewing work and residence permits.

Preventing female workers from moving to another job without the written consent of the employer has contributed to the spread of the phenomenon of abandoning work and leaving the workplace in an unregulated manner, which has increased chaos in the labor market and entrenched the concept of the kafala system. Several other factors have also contributed to the increase in the number of undocumented workers, including:

- **Delayed permit renewals:** Many employers fail to renew their workers' work and residence permits on time, even though permit renewal is a legal obligation for the employer.
- **Entry with incorrect visas:** Some workers resort to entering the country using incorrect visa types (tourist or medical) and joining the labor market without obtaining a work permit.
- **Procedures for transferring the employment contract:** Failure to follow the correct administrative procedures for transferring the employment contract, makes the new employer not obliged to renew the worker's residence and work permits.
- **Illegal work:** The employment of a worker by an employer not listed on the visa constitutes a violation of Labor Law.
- **Difficulty of renewal:** The worker cannot renew her work and residence permits because her employer has failed to do so. This situation affects her ability to leave the country, as it results in violations of labor and residence laws for foreigners.

These combined factors have effectively entrenched the kafala system and increased the number of unregistered or undocumented workers, causing chaos in the labor market. This situation has prompted many institutions and researchers to urge the Jordanian authorities to regulate the labor market, reduce the disorder, and establish clear policies that encourage undocumented or unregistered workers to regularize their legal status.

Ministry of Labor data indicates that the number of non-Jordanian workers having work permits has fluctuated significantly in recent years. Since year 2015, the number started to gradually increase to reach 352,350 workers in 2018, but dropped significantly to 221,833 workers in 2020 before rising again to 333,283 worker in 2021.

According to official statistics and an investigative report by the media, the number of domestic workers recruited to work in Jordan from countries such as Ethiopia, the Philippines, Indonesia, Bangladesh, Sri Lanka, Ghana and Kenya totaled 100,564 between 2017 and 2022. The yearly breakdown is as follows: 17,648 workers in 2017, 16,152 in 2018, 17,724 in 2019, 6,735 in 2020, 23,961 in 2021, and 18,344 in 2022.

Paper Description

Restrictions on the freedom to contract and transfer from one employer to another, as stipulated in the legal framework governing the recruitment and employment of domestic workers in Jordan, contribute to the increased exploitation of domestic female workers and widespread violations of their rights by employers and law enforcement authorities. This situation renders the framework inconsistent with international human rights standards. This paper aims to examine the legal implications of these restrictions on the rights of domestic female workers, propose legislative amendments and institutional measures, and advocate for an alternative system grounded in a human rights-based approach that enables domestic workers to freely change employers and access justice in the event of violations.

The main issues can be summarized as follows:

- **Labor exploitation:** Many workers face exploitation by employers, including practices such as passport confiscation, withholding of wages, and being forced to work long hours without adequate compensation.
- **Restricted Mobility:** The kafala system imposes severe restrictions on the movement of workers between employers, leading to the spread of "absconding" or unregulated abandonment cases.
- **Lack of legal protection:** Many workers lack effective mechanisms to protect their legal rights, leaving them vulnerable to exploitation and unable to claim redress for violations.
- **Increase in undocumented employment:** The current system has contributed to an increase in the number of undocumented workers, exposing them to more risks while complicating the regulation of the labor market.
- **Socio-economic impacts:** These conditions have far-reaching effects on Jordanian society as a whole, contributing to disorder in the labor market and adversely affecting the national economy.

Objective of the paper

This paper aims to analyze the current kafala system and provide human rights-based alternatives that ensure the protection of domestic workers' rights and enhance their working conditions. The paper also seeks to provide practical recommendations for Jordanian authorities and civil society to develop fairer and more effective policies.

Research Questions

- What factors contribute to the exploitation of domestic workers in Jordan?
- How does the kafala system affect workers' rights and working conditions?
- What are the possible alternatives to the kafala system that could enhance the human rights of domestic workers?
- How can Jordanian authorities and civil society cooperate to improve conditions for domestic workers?

Paper Preparation Methodology

This paper presents a thorough analysis of the kafala system in Jordan, drawing on a detailed review of both international and national legislation, as well as relevant reports and studies. It also examines previous statistics and research regarding the system, offering insights into the legal and social context of domestic workers. The methodology and findings are summarized below:

- **Data collection:** The paper utilized data collected from the Legal Aid Unit and organized awareness-raising and training sessions for domestic workers at Adalah. A total of 60 domestic workers were interviewed about their experiences and the abuses they faced under the current system. These interviews were conducted in the workers' native languages with the help of interpreters to ensure that their experiences and concerns were accurately communicated. Additional interviews in English and Arabic were also conducted to gain a broader understanding of the topic.

- **Analysis of results:** The information collected from interviews and statistics was carefully analyzed. Violations faced by female workers were categorized into several areas, including financial exploitation, inhumane working conditions, and restrictions on freedom of movement. This analysis illuminated the various dimensions of the issues caused by the kafala system and highlighted its impact on human rights.
- **Stakeholder interaction:** Alongside data collection, dialogue sessions were held with key stakeholders, including representatives from the government, civil society organizations, and trade unions. These sessions provided a platform for exchanging views on the challenges and opportunities associated with reforming the kafala system.
- **Formulation of recommendations:** Based on the analysis results and discussions with stakeholders, a set of practical recommendations was developed to promote the rights of domestic workers and improve their working conditions. These recommendations include proposals to restructure the kafala system, making it more humane and aligned with workers' rights.

Policy Paper

Section I: The Right to work in International Instruments and Local Legislation

First: International charters protecting the right to work

Several international instruments safeguard the right to work and form a comprehensive legal framework designed to protect workers' rights and promote social justice. These instruments play a crucial role in improving working conditions and elevating the human dignity of workers.

1) International Covenant on Economic, Social and Cultural Rights:

Material	Text
<p>Article 6</p>	<p>1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.</p> <p>2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.</p>
<p>Article 7</p>	<p>The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:</p> <p>(a) Remuneration which provides all workers, as a minimum, with:</p> <p>(i) Fair wages and equal remuneration for work of equal value</p>

Material	Text
Article 8	<p>without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;</p> <p>(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;</p> <p>(b) Safe and healthy working conditions;</p> <p>(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;</p> <p>(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.</p> <p>1. The States Parties to the present Covenant undertake to ensure:</p> <p>(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;</p>

Material	Text
	<p>(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.</p> <p>2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.</p> <p>3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.</p>

2) ILO Convention No. 87 (1948) on Freedom of Association and Protection of the Right to Organize:

This Convention guarantees the right of workers to form and join trade unions, enhancing their ability to defend their rights in the workplace, as unions are essential tools for bargaining working conditions, improving wages and working conditions, and play a vital role in protecting workers' rights.

3) ILO Convention No. 98 (1949) on the Right to Organize and Collective Bargaining:

This Convention focuses on the protection of workers' rights to engage in collective bargaining with employers, which helps improve working conditions. It also contributes to fostering social dialogue between workers and employers, leading to improved industrial relations and reduced conflicts.

4) Domestic Workers Convention No. 189 (2011):

This Convention aims to improve the working conditions of domestic workers, guaranteeing their basic rights such as fair wages and decent working conditions. It recognizes that domestic workers deserve the same rights as any other worker, contributing to social justice and reducing exploitation.

5) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990):

This Convention provides a set of standards to protect the rights of migrant workers, including the right to work and the right to resign without fear of reprisals or penalties. The Convention also reflects the international community's commitment to protecting the rights of the most vulnerable groups, such as migrant workers, and enhances their ability to enjoy their human rights.

6) Universal Declaration of Human Rights (1948):

Article 23 of the Universal Declaration of Human Rights states that everyone has the right to work, to freely choose their employment, and to just and satisfactory working conditions.

7) Other related conventions

- **Convention on the Elimination of All Forms of Discrimination against Women (1979):** aims to eliminate discrimination against women in all aspects of life, including the right to work.
- **Convention on the Rights of the Child (1989):** prohibits child labour and affirms children's right to education and protection from exploitation.
- **ILO Protocol on Forced Labour (2014):** aims to strengthen international efforts to eradicate forced labour in all its forms.

Second: The Right to Work within the Jordanian legislative framework

1. Legal Texts Related to the Right to Work in the Jordanian Legislation:

Article (12) of the Labor Law stipulates the regulations governing the employment of non-Jordanian workers as follows:

A- It is not permissible to recruit or employ any non-Jordanian worker without the approval of the Minister or an authorized delegate, provided that the work requires expertise and skills not available to Jordanian workers or if the available number of Jordanian workers does not meet the demand. The Minister shall issue the necessary instructions for this purpose, including professions prohibited for non-Jordanian workers, the permissible quotas for employing them, and the guarantees that

employers must provide.

B- A non-Jordanian worker must obtain a work permit from the Minister or an authorized delegate before being recruited or employed. The permit is valid for one year or part thereof unless the Minister decides to extend it to two years for specific sectors or activities determined by a decision issued for this purpose. The duration of the permit, when renewed, is calculated from the expiration date of the worker's last work permit.

C- 1. The Ministry collects a fee for each work permit it issues or renews for non-Jordanian workers, including those subject to the provisions of paragraph (b) of Article (3) of this law. This fee is considered revenue for the state treasury.

2. The Ministry shall collect an amount for each work permit issued or renewed in accordance with the provisions of item (1) of this paragraph, which is allocated to the Technical and Vocational Skills Development Commission, established in accordance with the provisions of the Technical and Vocational Skills Development Law. Of this amount, (7%) is designated for enhancing the efficiency and capacity of the Ministry and its employees, as well as for incentivizing them. These funds are disbursed in accordance with the relevant legislation.

D- The following shall be determined by a specific regulation:

1. The amounts of fees and charges referred to in paragraph (c) of this Article.

2. The types of work permits issued by the Ministry and the specific provisions related to them.

3. The fines imposed on workers and employers who violate the provisions of paragraph (c) of this Article.

E-1. The employer or any individual who employs or mediates the employment of a non-Jordanian worker in a manner contrary to the provisions of this law shall be fined

no less than double the fees and charges of a work permit applicable to the sector in which the worker was arrested. The fine shall become four times the fees and charges of the work permit applicable for the sector in which the worker was arrested in the event of repeated violations.

E-2. An employer who has obtained a work permit in their name but fails to notify the Ministry when the worker ceases employment and is subsequently found working for another employer shall be subject to the penalty specified in item (1) of this paragraph.

E-3. Penalties shall be cumulative if multiple violations are committed.

F-1. The children of Jordanian women married to non-Jordanians residing in the Kingdom shall be exempted from obtaining the work permits stipulated for in paragraphs (a) and (b) of this Article.

F-2. The Council of Ministers shall issue the necessary regulations to regulate the employment of non-Jordanians residing in the Kingdom.

G- The Minister or an authorized delegate may exempt a person with a severe disability, their guardian, or their legal custodian from paying the fees and charges referred to in paragraph (c) of this Article for one non-Jordanian worker, provided that the person with the disability is in urgent need of assistance from others to manage daily life activities, and the income level of the person with the disability, their guardian, or their custodian justifies such an exemption. The tasks of the non-Jordanian worker must be limited to providing support to the person with a disability. The conditions for such recommendations and the procedures for issuing them shall be determined by instructions issued by the Minister of Social Development for this purpose.

H- The employment of a non-Jordanian worker in any of the following cases shall be considered a violation of the provisions of this Law :

1. Employing a worker without obtaining a valid work permit or with a work permit that has expired for a period not exceeding ninety days.

2. Employing a worker for an employer other than the one officially authorized to do so, unless the worker has obtained prior approval from the relevant authority within the Ministry

3. Employing a worker in a profession other than the one specified in their work permit.

I. The Minister shall issue a decision to deport a non-Jordanian worker outside the Kingdom in any of the following cases: 1. If the worker violates the provisions of this Article, including cases where it has been proven to the Ministry that the worker has left their authorized employer. 2. If the worker is employed without the required license or permit in accordance with applicable legislation.

II. The deportation decision shall be executed by the relevant authorities at the expense of the violator who was employing the arrested worker. A deported non-Jordanian worker may not be re-recruited or re-employed before at least five years have passed from the date of the deportation decision's execution.

III. If the violator fails to pay the travel expenses stipulated in item (2) of this paragraph, these expenses shall be collected from them in accordance with the provisions of the Public Funds Collection Law.

Article (34) of the Residency and Foreigners Affairs Law stipulates the following:

1. Any foreigner who entered the Kingdom legally but failed to obtain a temporary residence permit or exceeded the period of their granted residence, or submits a request for the renewal of their annual residence permit more than one month after its expiration shall be fined. The fine amounts to forty-five dinars for each month of violation or part thereof, calculated at the rate of one and a half dinars per day for every day within that period.

2. The Minister, upon the recommendation of the Secretary-General of the Ministry, may waive these fines if they do not exceed 250 dinars. If the fines exceed this amount, a waiver may be granted by a decision from the Prime Minister, based on the Minister's recommendation.

Article (8) of the Regulation of Offices Working in the Recruitment of Non-Jordanian Domestic Workers - No. (63) of 2020 stipulates:

a- Recruitment offices are prohibited from: Paragraph (4) Employing workers in roles other than domestic work, hiring them for daily labor, or allowing them to work for anyone other than the homeowner authorized to employ them.

b- In the performance of its duties, the Recruitment Office shall comply with the following: Paragraph (4) Maintain an electronic database containing information about recruited workers, their nationalities, numbers, the names of homeowners, and any additional information determined by the Ministry. They must also provide the Ministry with reports containing this information upon request.

Paragraph (5) Retain, in either paper or electronic form, the contracts signed with homeowners and workers and the documents related to the recruitment approved by the Ministry for a period of five years from the date of the worker's entry into the Kingdom. Offices must enable labor inspectors to access these documents and make copies if necessary.

Article (9) of the Regulation of Offices Working in the Recruitment of Non-Jordanian Domestic Workers - No. (63) of 2020 stipulates: The Minister shall determine, upon the recommendation of the Committee, the costs for: Paragraph (2) The transfer of a worker within the Kingdom from one homeowner to another.

Article (15) of the same regulation states: A- Recruitment office shall comply with the following:

- Deportation of a worker with a communicable or infectious disease, or a condition that prevents them from performing their work, or a pregnant worker, within a period not exceeding seven working days from the date of issuance of the medical examination results by the Ministry of Health.
- Complete the worker's medical examination within no more than three working days from their entry into the Kingdom and hand them over to the homeowner, provided the worker is medically fit,, unless the office provides evidence that the delay in issuing the medical examination is due to reasons related to the Ministry of Health.
- Submit an application for the issuance of a work and annual residency permits for the worker and deliver them to the homeowner within three working days from the date of issuance of the worker's medical examination results.
- Provide, at their own expense, a return ticket for any worker who refuses to complete their contract period with the homeowner and wishes to return to their home country.

2. Criticisms of the legal framework governing the recruitment and employment of female domestic workers in Jordan:

The kafala system effectively ties the residency of migrant domestic workers to their employer, a practice that has sparked controversy in many countries. This system has faced widespread criticism due to the numerous violations of domestic workers' rights it has caused in recent years. These violations have underscored the urgent need to find alternatives to the kafala system and to adopt a human rights-based approach to protect domestic workers and ensure their dignity. Key criticisms of the kafala system include:

- Restricting workers' freedom to contract and change employers, limiting their ability to change jobs easily, leaving them vulnerable to exploitation

by employers.

- Difficulty in accessing justice, as this system makes it difficult for a worker to file complaints against violating employers due to fears of deportation or losing their jobs, as they may be accused of absconding or violating residency laws.
- The spread of forced labor, where the current framework contributes to the rise of forced labor and modern slavery, where workers become vulnerable to blackmail and threats.
- Many domestic workers are deprived of basic rights, such as the right to fair wages, safe working conditions, and the right to organize trade unions.

It should be noted that tying the work and residency permits to a single employer without allowing any freedom of movement restricts the workers' ability to file a legal complaint in case of rights violations, especially in criminal cases, such as assault, abuse, fraud, or passport confiscation. The system prevents domestic workers from accessing justice to lodge complaints against their sponsors. The existence of "absconding" notifications exacerbates the situation, as these notifications allow the employer to have the worker deported, leaving the worker hesitant to file complaints for fear of deportation. Even those domestic workers who have good relationships with their employers face significant challenges, as regulations require the employer's approval for the worker to transfer to a new employer. This restriction applies even when the worker has been with the same employer for years. As a result, workers often continue to receive the same low wages, as employers are under no obligation to increase them, even as the cost of living rises.

Section II:

Restrictions and Conditions of Domestic Workers under the Current System

First: Restrictions Faced by Domestic Workers under the Current System:

Three key factors impose restrictions on domestic workers under the current system:

- The worker's inability to change jobs without the sponsor's permission.
- The worker's inability to resign from the job.
- The worker's inability to leave the country without the sponsor's permission if an absconding report has been filed.
- Among the main reasons for the continuation of these restrictions:
- Weak laws: The absence of clear and decisive laws to protect workers' rights.
- Difficulty in enforcing laws: Weak oversight of the enforcement of existing laws.
- Employer dependence: The legal framework grants employers absolute authority over domestic workers, making it difficult to hold them accountable for violations.
- Societal perception: Negative societal attitudes toward women working as domestic workers reduce public awareness of their rights.

Example Case:

“Thawabat”, an Ethiopian domestic worker, had been employed by her sponsor since 2015. In 2023, the sponsor decided to terminate her services. He evicted her from the house, confiscated her passport, withheld part of her wages, and filed an absconding report against her with the local police station. Attempts were made to negotiate with the sponsor to allow her to transfer to another employer and to return her passport in exchange for waiving her unpaid wages. Thawabith expressed her willingness to remain and work in Jordan. However, the sponsor refused to cooperate and demanded additional payments to permit her transfer.

A legal case was filed at the West Amman Court to claim her rights. During the court proceedings, she was arrested due to the absconding report and her release was denied. The sponsor informed the police of his desire to deport her, claiming she was no longer of interest to him. She was ultimately deported to her home country after a deportation order was issued against her due to the expiration of her work permit. She left Jordan without receiving her unpaid wages or any of her rights.

Second: Conditions of domestic workers under the current situation:

Under the current labor conditions, domestic workers suffer the worst forms of exploitation among migrant labor sectors. They are marginalized, deprived of freedom of movement, and excluded from the minimum wage protections.

Furthermore, labor inspectors from the Ministry of Labor do not visit their workplaces to verify wage payments. Inspections of domestic workers' residences are restricted by requirements such as the existence of a formal labor complaint against the homeowner, the homeowner's consent, or special authorization from judicial authorities. This is despite the severe violations migrant domestic workers in this sector frequently face.

Domestic workers are also excluded from social security benefits and end-of-service gratuity, depriving them of these fundamental rights.

According to Jordanian judicial rulings, domestic workers, cooks, gardeners, and others in similar roles are not entitled to end-of-service benefits, compensation for unfair dismissal, notice allowances, or payment for working on religious holidays and official days off. These rights are not addressed in the Domestic Workers Regulation No. (90) of 2009 and its amendments. Consequently, courts consistently reject claims for these rights. Domestic workers are only entitled to the rights explicitly outlined in Article (7) of the regulation, which grants workers a weekly day off, fourteen days of paid annual leave, and fourteen days of paid sick leave per year. For further details, the rulings of the Jordanian Court of Cassation on this matter can be consulted¹.

Domestic workers also face significant obstacles in accessing justice under the current circumstances, including fear of retaliation by their sponsors, a lack of awareness of their legal rights, language and cultural barriers, the high costs of legal proceedings, and lengthy litigation processes.

Additionally, Jordanian laws do not allow domestic workers to freely change employers, even after their contract has expired. Ministry of Labor regulations require domestic workers to possess their passports and have no absconding reports filed

¹Court of Cassation in its legal capacity: Decision No. (7487/2023) Decision No. (7270/2023) Decision No. (1511/2022).

against them. However, most employers, once a worker leaves their place of employment, file absconding reports and confiscate the workers' travel documents, preventing them from completing the transfer process to a new employer.

The legal procedures require domestic workers to report to security authorities to cancel the absconding reports filed by their employers, labeling them as "runaways." This process often results in the workers being detained by security authorities, preventing them from filing any criminal complaints against employers for passport confiscation. If the employer refuses to cancel the absconding report, domestic workers frequently face detention, deportation, and forced removal from the country.

It can be noted that the current legal framework has contributed to the continued exploitation of domestic workers and hindered their ability to maintain legal status in Jordan for the following reasons:

First: The current regulation has contributed to the spread of shell employers and the payment of large sums of money to permit brokers to remain legally in Jordan. Despite this, many fake sponsors exploit domestic workers, collecting significant amounts of money—sometimes reaching thousands of dollars—without issuing work permits or regularizing the workers' legal status.

Second: The requirement that prevents a domestic worker from transferring to a new employer without obtaining a waiver from the previous employer constitutes a violation of the legal framework. The law permits a domestic worker whose contract has expired or whose work permit has been canceled for more than two years to transfer to another employer without the previous employer's consent, even if an absconding report has been filed. However, this requirement has prevented many workers from regularizing their legal status due to the impossibility of obtaining a waiver from the first sponsor, who may have left the country, passed away, become unreachable, or

for other similar reasons. As a result, several domestic workers who have long been in violation of labor or residency laws have been unable to contact their original sponsors or employers, depriving them of the opportunity to correct their legal status and forcing them to remain in violation of the law.

Third: Decisions issued by the Ministry of Labor regarding the issuance of flexible or "free" work permits have completely excluded domestic workers from eligibility. Despite several concerns about the flexible permit system, such as the high fees imposed on workers. Developing and improving this system in the future could be a crucial step toward reducing and eventually eliminating undocumented labor.

Fourth: Inconsistent and ambiguous decisions issued by the Ministry of Labor, along with excessive procedural formalities required for legal status correction, have significantly contributed to the violation of domestic workers' rights.

Fifth: Allowing security notifications, commonly known as "absconding reports," and the refusal of employers and the Ministry of Labor to complete transfer procedures without canceling such reports have prevented many workers from claiming their legal rights.

Sixth: The expiration of domestic workers' passports and the confiscation of their travel documents by employers, combined with the absence of a practical mechanism for retrieving these documents, have further contributed to the violation of workers' rights.

Seventh: Domestic workers' fear of deportation and removal orders issued by the Ministry of Interior when reporting to security authorities to cancel absconding reports or file passport loss complaints has forced many workers to remain undocumented and vulnerable.

Section III:

Why Is the Current System in Jordan Considered a Form of Modern Slavery?

The kafala system is often viewed in the context of human rights and labor as a form of modern slavery. This system tightly binds workers to their employers, restricting their freedom of movement and limiting their ability to change jobs or leave the country, which many consider a violation of fundamental human rights.

There are several reasons why the kafala system is considered a form of modern slavery:

- 1. Movement control:** The kafala system prevents workers from leaving the country or changing jobs freely, making them vulnerable to exploitation.
- 2. Financial dependency:** Workers rely entirely on their sponsors for work and residency permits, leaving them susceptible to extortion and threats.
- 3. Ill-treatment:** In some cases, workers are subjected to ill-treatment and poor living conditions without adequate legal protection.
- 4. Violation of human rights:** The kafala system infringes on basic human rights, including the right to freedom, employment, and individual mobility.

Among the major impacts of the kafala system:

- **Exploitation:** The kafala system facilitates the exploitation of workers, allowing sponsors to pay low wages and provide poor working conditions.
- **Illegal immigration:** The kafala system pushes many workers to resort to illegal immigration in search of a better life.
- **Sexual abuse:** In some cases, workers, particularly domestic workers, are subjected to sexual abuse.

- **Deterioration of International Relations:** The kafala system leads to the deterioration of relations between labor-exporting countries and labor-importing countries.

Section IV:

A human rights-based approach to the right to work:

First: Core principles of a human rights-based approach within the framework of the right to work.

As defined in international human rights law, work must be decent, meaning that human rights and labor rights should be protected in all aspects.

The right to work is not limited to paid employment but also extends to self-employment, domestic work, and other income-generating activities. This right requires the creation of a social, economic, and physical environment where all workers have fair and equal opportunities to succeed through their personal efforts, in a manner consistent with their dignity.

The right to work includes the responsibility to strengthen personal capacities and expand people's access to productive employment and means of earning a decent livelihood. The right to work therefore necessitates providing decent work opportunities and a supportive regulatory environment.

Among the keyword-related rights is the right of every individual to enjoy fair and favorable working conditions, including equal pay for work of equal value, equal opportunities, remuneration that guarantees a decent living for workers and their families, safe and healthy working conditions, freedom of movement, reasonable work hours with adequate rest periods, the right to organize, and the right to

collective bargaining.

Various forms of exploitative labor, including forced labor and practices resembling slavery, are strictly prohibited. Moreover, ensuring the right to work requires establishing adequate and well-structured social security mechanisms to address crises—whether economic or political—that may prevent certain individuals from accessing regular employment.

The core principles of a human rights-based approach to the Right to Work can be summarized as follows:

- **Human dignity:** All workers must be recognized as individuals with inherent dignity, and their fundamental rights must be respected regardless of their nationality or legal status. This requires addressing the issues of exploitation and discrimination faced by domestic workers.
- **Equality and non-discrimination:** Equal access to employment opportunities and fair working conditions must be ensured, regardless of gender, nationality, or social status. Effective measures should be implemented to eliminate discrimination against domestic workers.
- **Right to organize:** Workers must be allowed to form and join unions, enhancing their ability to defend their rights and interests. This requires lifting restrictions on freedom of association and union activity.
- **Right to decent working conditions:** Working conditions must include fair wages, reasonable working hours, and a safe and healthy work environment. This requires setting clear standards to protect workers from exploitation.
- **Right to access justice:** Workers must have access to effective legal mechanisms to protect their rights and hold employers accountable for violations. The justice system must be strengthened to ensure that violators are not granted impunity.

Second: Guaranteeing the right of migrant women to work, fair and satisfactory conditions.

Ensuring the right to work, and fair and satisfactory conditions of work, without discrimination of any kind, requires appropriate gender-sensitive policies and interventions to protect the rights of all migrant women in the labour market, including their access to decent work and livelihoods. Among the most important of these rights:

- Ensuring that women workers are not discriminated against and enjoy equal treatment with citizens. All workers, without discrimination, should be entitled to equal terms and conditions of employment, including wages, the right to choose their workplace, social protection, and union rights.
- Taking measures to ensure that female workers are not subjected to occupational discrimination. Negative outcomes frequently occur when domestic workers are forced to work under irregular economic conditions, necessitating protective measures based on their marital or social status.
- Strengthening the authority and/or capacity of labor inspection bodies and labor inspection services to effectively monitor domestic workers' working conditions across all sectors.
- Establishing effective complaint mechanisms to safeguard domestic workers' rights, regardless of their nationality, migration status, or categories. Workers should be entitled to file complaints against their employers and access redress (including unpaid wages or compensation) in cases of labor rights violations. Ensuring that domestic workers can claim their rights regardless of their migrant status, with access to effective judicial remedies, is essential.

These mechanisms must operate without fear of retaliation or dismissal, enabling all female workers to pursue justice and secure redress for violations of their workplace rights.

Third: Alternative human rights-based approach

Establishing an alternative human rights-based approach requires a range of legislative and policy reforms aimed at:

- **Decoupling residency from Employment:** Allowing domestic workers to change jobs freely without needing the employer's consent.
- **Facilitating domestic workers' access to justice:** Providing effective complaint mechanisms and protecting workers from employer retaliation.
- **Combating forced labor and modern slavery:** Strengthening penalties against offenders and offering victim protection programs.
- **Ensuring basic rights for domestic workers:** Applying international labor laws and providing social protection.

Among the key components of the alternative model for migrant domestic workers are:

- 1) **Comprehensive labor legislation:** Labor legislation should cover all workers, both citizens and migrant workers, ensuring equal treatment.
- 2) **National registration system:** A national registration system should be established to facilitate domestic workers' access to rights and services.
- 3) **Effective inspection mechanisms:** Workplace inspection mechanisms should be strengthened, and violators should be held accountable.
- 4) **Awareness programs:** Awareness programs should be implemented to educate domestic workers about their rights and inform employers of their legal obligations.
- 5) **International cooperation:** International cooperation should be enhanced to combat human trafficking and illegal migration.

The benefits of the alternative migration system lie in the following:

- **Protecting the rights of female workers:** The new model ensures that workers' rights are protected and reduces their risk of exploitation.
- **Promoting economic development:** It fosters a fairer work environment, attracting investments and supporting economic growth.
- **Improving the Country's image:** It strengthens the country's reputation as a state that respects human rights, attracting more talent.

Section V: Efforts to reform the kafala system

Despite widespread criticism of the kafala system, efforts have been made to reform or abolish it. These efforts include:

- **International pressure:** Many international and human rights organizations exert pressure on countries that implement the kafala system to reform it.
- **National legislation:** Some countries are amending their legislation to reduce employers' authority over workers.
- **Protection programs:** Some countries launched programs aimed at protecting the rights of foreign workers.

• Qatar's Experience in Amending the Kafala System

In recent years, the Government of the State of Qatar has undertaken extensive labor law reforms to enhance working conditions and ensure a decent life for migrant workers, including:

- **Minimum Wage**

In March 2021, the Government of the State of Qatar approved a minimum wage of QAR 1,000 per month for all employees in all sectors, including domestic workers. The decision also requires employers to pay 500 QAR per month as housing allowance and 300 QAR per month as food allowance, unless they provide suitable accommodation and meals. The minimum wage was established following extensive consultations with a specialized national committee composed of relevant Qatari authorities. Additionally, a Minimum Wage Committee was created and tasked with conducting regular reviews to evaluate the minimum wage's impact and ensure its proper application to all workers, including domestic workers.

- **No Objection Certificate**

- An employee will no longer need to obtain a No-Objection Certificate from their employers to terminate their contracts. This allows workers to explore new job opportunities within Qatar and contributes to economic growth through local and international businesses.
- Employees will be able to terminate their contracts by providing a written notice of at least one month if they have worked for their employer for two years or less. If they have worked for more than two years, they must provide a two-month written notice.
- Employees may be placed on probation for a period to be agreed upon with the employer, provided that it does not exceed six months from the employment start date.
- If employees are exposed to sensitive information, the employer may include a non-compete clause in the employment contract, restricting the worker from

engaging in competing businesses within the same economic sector for up to one year after contract termination.

- **Cancellation of exit permits**

On January 16, 2020, the Qatari government issued Minister of Interior Decision No. 95 of 2019, abolishing exit permits for all migrant workers not covered by Qatar's labor law. Under the new law, all migrant workers, including domestic workers, can leave the country without prior approval from their employers, except for military staff. All domestic workers must inform their employers of their intention to leave at least 72 hours in advance, ensuring the rights of both employers and domestic workers. Additionally, employers may submit a justified and prior request to the Ministry of Interior specifying the names of employees whose departure requires prior approval due to the nature of their work².

In conclusion, the kafala system remains a significant challenge to human rights despite efforts to reform it. It continues to pose a serious threat to the lives and dignity of millions of domestic workers around the world. Therefore, it has become imperative to take decisive action to eliminate this system and replace it with a fair and equitable migration system that protects the rights of all workers.

²Labour Market Reforms - Government Communications Office (gco.gov.qa)

Section VI:

Using International Instruments to Improve Workers' Rights in Jordan

Using international instruments as a framework for improving workers' rights in Jordan requires a strong commitment from the government, civil society, and employers to ensure social justice and human rights for all workers. This can be achieved through the following measures:

First: Compliance with international standards:

Jordan should review and amend labor legislation to align with international standards outlined in conventions such as the Domestic Workers Convention (189) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). This includes abolishing the kafala system, which restricts workers' freedom and violated their fundamental rights³.

Second: Operationalizing the role of trade unions:

The capacity of trade unions to represent the interests of workers, including migrant workers, must be strengthened. This can be achieved by providing technical support and training to enhance unions' negotiation skills and improve working conditions⁴.

Third: Implementing training programs:

Training programs should be implemented for both employers and workers to raise awareness about their rights and responsibilities, promoting better compliance with labor laws.

³<https://ps.boell.org/ar/2022/02/15/tmkynalmaal-almhajrwn-fy-alardn-ytrdwn-lanthakat-dt-lqrat-almzyd>

⁴<https://www.ilo.org/ar/projects-and-partnerships/projects/shbkt-adart-hjrt-alyd-alamlt-magnet>

Forth: Provide legal support:

Legal services must be available to migrant workers to help them claim their rights. These services could include legal counseling and support in cases of violations⁵.

Fifth: Activating monitoring and evaluation mechanisms:

An effective labor inspection system must be developed to monitor working conditions and ensure compliance with labor laws. This requires strengthening the capacities of labor inspectors and providing them with the necessary resources⁶.

Sixth: Cooperation with international organizations:

The International Labour Organization (ILO) can play a vital role in supporting reforms by providing technical advice, sharing knowledge, and exchanging expertise with the Government of Jordan and civil society organizations.

Seventh: Community awareness:

Awareness campaigns should be conducted to educate the community about the importance of workers' rights and promote a culture of respect for human rights, fostering a fair and equitable work environment.

Eighth: Eliminating exploitative Practices:

Exploitative models and practices, such as "clearance certificates" used to extort migrant workers, should be abolished to protect workers from abuse and ensure fair treatment.

⁵<https://www.ilo.org/ar/projects-and-partnerships/projects/hmayt-hqwq-almal-almhajryn-fy-alardn>

⁶<https://www.ilo.org/ar/projects-and-partnerships/projects/thsyn-hmayt-hqwq-almal-fy-alardn>

Recommendations

General recommendations

First: Abolishing the restrictions imposed on the movement of domestic workers by allowing them to transfer to a new employer without the previous employer's consent. Many employers (sponsors) refuse to approve workers' transfers unless they receive large sums of money in return, reinforcing this practice through existing laws and regulations that require written consent from the previous sponsor. Employers' excessive demands for compensation have deprived many workers of the opportunity to regularize their legal status. The Ministry of Labor should require employers to take disputes arising from employment contracts to the competent court for resolution.

Second: Abolishing absconding reports- filed against domestic workers at security centers by sponsors, as they violate international standards and laws by criminalizing workers who have committed no crime. This practice has prevented many domestic workers from regularizing their status, as they fear detention, deportation, or both, discouraging them from approaching security centers. The Ministry Interior should issue regulations prohibiting the detention of workers who report to security centers to clear absconding reports. Employers should be required to file claims through the competent courts if they have any contractual disputes.

Third: Holding irregular work permit brokers accountable and require them to compensate workers harmed by such practices. Strict enforcement of laws against human trafficking, forced labor, wage theft, and debt bondage should be pursued, with brokers prosecuted accordingly.

Forth: Strengthening labor inspections, particularly in sectors where domestic workers face isolation, limited communication, and restricted access to justice and services.

Fifth: Effective reporting mechanisms for cases of forced labor and wage theft should be accessible and user-friendly for domestic workers, regardless of their language. This can be achieved by providing hotline services and electronic complaint platforms through embassies and consulates, which in turn can handle necessary referrals. Employers should also be legally required to establish safe individual and collective complaint mechanisms at the workplace.

Sixth: The Domestic Workers' Regulation should be amended to include an explicit provision extending the application of the Jordanian Labor Law to all situations not expressly covered by the regulation itself.

Seventh: Amending Article (34) of the Residency and Foreigners Affairs Law concerning overstayed residency permits to impose fines on the employer responsible for the overstay rather than on the worker.

Eighth: There should be greater collaboration between official institutions and civil society organizations, labor unions, and embassies of labor-sending countries. This partnership is essential for achieving the primary goal of protecting the rights of domestic workers and reducing undocumented labor.

Specific recommendations:

First: Reforming national legislation:

- **Abolishing the kafala system:** The Jordanian government should abolish the

kafala system and replace it with a legal system that guarantees the rights of domestic workers and allows them the freedom to change employers.

- **Amending labor laws:** Labor laws should be reviewed and updated to align with international standards, including providing legal protections for domestic workers.

Second: Promoting workers' rights:

- **Providing basic labor rights:** Workers' rights should include fair wages, reasonable working hours, and healthy and safe working conditions.
- **Right to organize and bargain collectively:** Workers should have the right to form and join trade unions, enabling them to defend their rights and interests.

Third: Developing monitoring and inspection mechanisms:

- **Establishing an effective inspection system:** A comprehensive inspection system should be developed to monitor working conditions and compliance with labor laws, supported by adequate training and resources for labor inspectors.
- **Activating complaint mechanisms:** Simple and effective complaint mechanisms should be established, ensuring timely and fair responses to cases of violation.

Forth: Raising awareness and promoting education:

- **Awareness programs for workers and employers:** Training and awareness programs should be implemented to inform workers of their rights and duties while educating employers on the importance of adhering to labor laws.
- **Media campaigns:** Public awareness campaigns should be organized to highlight workers' rights and the importance of respecting them.

Fifth: Partnering with civil society:

- **Supporting NGOs:** Collaboration with non-governmental organizations (NGOs) and labor unions should be strengthened to support efforts aimed at improving

the situation of domestic workers and promoting human rights.

- **Organizing workshops and conferences:** Workshops and conferences involving all relevant stakeholders should be conducted to discuss challenges and possible solutions.

Sixth: Providing legal support:

- **Establishing legal aid units:** Free or low-cost legal services should be made available to assist workers in claiming their rights.
- **Cooperation with lawyers and human rights organizations:** Cooperation between lawyers and human rights organizations should be encouraged to provide effective legal support for workers.

Seventh: Conducting Impact assessments and continuous reviews:

- **Conducting periodic assessments:** Periodic evaluation studies should be conducted to measure the impact of new policies on workers' rights and working conditions.
- **Results-based policy modification:** Policy adjustments should be made based on the assessment results to ensure continuous improvement.

Annexes

Procedures approved by the Directorate of Domestic Workers at the Ministry of Labor, and the required documents for the transfer of domestic workers from one employer to another according to the form approved by the Ministry of Labor.

Transfer of a female worker from one sponsor

Beneficiaries of the service	<ul style="list-style-type: none"> • Recruitment and employment offices for domestic workers. • Non-Jordanian domestic workers. • Homeowners (employers).
Service Location	Directorate of Domestic Workers
Service Eligibility Requirements	<ul style="list-style-type: none"> • Must be the head of a household. • Must be eligible for exemption from the Ministry of Social Development if the application involves an exemption or one of the household's children.
Required Documents	<ol style="list-style-type: none"> 1. An employment contract between the new employer and the female worker. 2. A copy of the family book of the new employer. 3. A copy of the worker's valid passport. 4. A new medical examination report for the worker or electronic verification. 5. Life insurance contract in the name of the new employer. 6. Proof of income for the new employer. 7. Bank account opened in the worker's name or proof of its existence. 8. Worker transfer form approved by the Ministry of Labor, duly completed. 9. Application for a work permit for the new employee.. 10. Exemption application from the Ministry of Social Development, if applicable.
Service Provision Procedures	<ol style="list-style-type: none"> 1. Obtain and fill out the waiver form approved by the Ministry of Labor. 2. Ensure the presence of all three concerned parties (previous employer, new employer, and worker) or provide bank-certified approval or written authorization for homeowners. 3. Stamp the form from the Residency and Borders Department, confirming that the worker is not subject to an absconding report. 4. The waiver form is signed. Sign the transfer form. 5. Submit the application to the relevant Directorate of Labor. 6. The specialized officer verifies the completeness of the application and enters it into the system if complete. 7. Pay the required fees. 8. Print the work permit.
Service Partners	<ul style="list-style-type: none"> • Ministry of Interior • Ministry of Health • Ministry of Social Development • Syndicate of Non-Jordanian Domestic Workers Owners