

Syrian refugees and Social Security in Jordan

Tamkeen for Legal Aid and Human Rights



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Introduction

Jordan is the second largest country in the world in terms of its proportion of refugees to citizens, where one third of the Jordanian population are refugees. It also has the fifth largest refugee population in absolute terms, according to the United Nations High Commissioner for Refugees, with more than 3.788 million refugees from more than 53 nationalities, mostly Palestinian and Syrian. The UNHCR's records indicate that there are 702,506 refugees and 4,870 asylum-seekers, including 127,373 registered Syrian refugees.¹ The Jordanian Government reports about 1.3 million Syrian refugees in Jordan, about half of whom are not registered with UNHCR.

Syrian refugees suffer from difficult economic and social living conditions, especially in the field of access to education, health care and employment. This is due to the absence of social protection umbrellas, high unemployment rates, and the fact that non-Jordanian workers are not allowed to work in professions in which Jordanians work, or can only do so within very narrow limits, which is reflected in Jordan's severely deficient social protection system, particularly with regard to social security and refugees, **where the social security umbrella is absent for many non-Jordanian workers and refugees.** Social Security Corporation figures indicate that the number of compulsorily active Jordanians insured reached 1,165,477 in (2021), while the number of non-Jordanian insured persons was 155,375 for the same year, the figures indicate that the workforce's coverage under the social security umbrella is weak, especially for non-Jordanian workers, who make up a large proportion of Jordan's total workers.²

Despite the low inclusion of workers in the social security umbrella and with some exceptions, employers in Jordan are required to include their employees in social security regardless of their nationalities. The law obliges them to do so once work permits are issued to non-Jordanian workers, **but the matter is different for Syrian refugees**, where they obtain work permits through cooperative societies or the General Confederation of Trade Unions of Jordan. This separates them from their employer and dispenses them from the need to comply with the conditions for the employer's inclusion and registration of Syrians in the social security umbrella, since the issuance of the work permits began without the obligation to register for social security. Instead, they must receive an insurance policy costing approximately 45 JDs, as a decision was issued in the year 2021 that they must register with social security and link it to the issuance of a flexible work permit. In this respect, the mechanism for protecting Syrian workers by issuing an insurance policy and compensating workers in the event of a work injury was not clear. These programs

¹ United Nations High Commissioner for Refugees
<https://www.unhcr.org/ar/4be7cc278c8.html>

² Social Security Corporation, Annual Report 2021
<https://www.ssc.gov.jo/wp-content/uploads/2022/09/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A%D9%A2%D9%A0%D9%A2%D9%A1.pdf>

do not provide the minimum social protection coverage according to the definition of ILO Convention No. 102 related to minimum standards of social security. Flexible work permits do not relate to an employer or specific profession, and transferring the liability for work injury insurance to the permit holders themselves limits the measure of protection provided to them.

The issue of protecting Syrian workers through social security is of great importance, especially since the majority of Syrian workers who have work permits do not have social security coverage.³ The number of Work Permits issued from 2016 to 2021 was approximately 119,692, linked to an insurance policy without social security.

In light of the importance of social security and the protections it provides, Tamkeen for Legal Aid and Human Rights decided to examine in this paper the extent to which Syrian refugees access social protection, particularly their inclusion in the social security umbrella, its impact on them, and the challenges they face in this regard.

3 According to Tamkeen's work on Work Permit issues from 2016 until the end of 2022

Legal Framework for Refugees' Right to Work

Jordan has not ratified the 1951 Geneva Convention relating to the Status of Refugees and its 1966 Protocol, which grants refugees comprehensive protection and social rights on an equal basis with other citizens and non-Jordanians. Local legislation does not automatically grant refugees the right to residence, formal education, health care, work, and social security.

It should be noted here that, although Jordan has not signed the 1951 Convention, these rights have been enshrined in other International Human Rights Conventions, such as the Universal Declaration of Human Rights⁴, Article 23 of which stipulates the right to work as a universal human right. Although this Declaration is not binding, the rights enshrined in the Declaration form the basis of International Human Rights Law. This right is also mentioned in Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights,⁵ which Jordan has ratified.

To provide protection to refugees, Jordan signed a Memorandum of Understanding with the United Nations High Commissioner for Refugees (UNHCR) in 1998, which sets out the principles for the registration of asylum-seekers and refugees, and clarifies practical criteria for cooperation.

The Memorandum of Understanding provides for the physical and legal protection of refugees, defines the period of residence, and guarantees them protection against refoulement.

Asylum seekers cards issued by UNHCR, as well as "service cards" for Syrian refugees issued by the Minister of the Interior since 2014, are used as proof of registration and allow them to benefit from international and national assistance programs for them.⁶

With regard to social protection, the Memorandum of Understanding affirms refugees' right to work in accordance with national legislation, which means that refugees are systematically employed in sectors of the economy defined by the Ministry of Labor and made available to migrant workers, and this entails their registration in social security.

The Memorandum of Understanding also includes provisions on ensuring a dignified life for refugees through attention to cash assistance/food, housing, and remedy costs. This measure is of the utmost importance, as the recurring cash aid program in Jordan managed by the National Aid Fund does not cover non-Jordanians and is allocated to Jordanian citizens. Additionally, the social protection strategy (2019- 2025) aims to provide a decent life for all

4 The Universal Declaration of Human Rights of 1948 is available on the following link: <https://www.ohchr.org/AR/UDHR/Pages/UDHRIndex.aspx>

5 International Covenant on Economic, Social and Cultural Rights of 1966, available at: <https://www.ohchr.org/AR/ProfessionalInterest/Pages/CE-SCR.aspx>

6 These cards are not residence permits and cannot prove marriage, recognition of births or inheritance rights. They can be used de facto as ID cards.

Jordanians by creating a “social protection ground” that does not cover non-Jordanians.⁷

In practice, migrants are allowed to work in Jordan in sectors according to the needs of the labor market and a list of professions defined by the Ministry of Labor. The majority of them work in agriculture, construction, industry, retail, and vehicle repair sectors⁸. However, the cost of obtaining a work permit is relatively high according to their difficult economic situation and is what prompts migrants to work without work permits or any kind of protection in the labor market.

From the beginning of their entry to Jordan until 2016, Syrian refugees were treated equally as refugees of other nationalities, receiving various available social protection services, including financial assistance and aid. However, afterwards, Syrian refugees were prevented from working legally as others. The ban continued until 2016, when the London Donors’ Conference was held to facilitate the entry of Syrians into the labor market.

In this regard, it must be stressed that Jordanian legislation does not refer in its provisions to the right of refugees or asylum-seekers to work. They are referred to and treated like other foreigners, and the Labor Law does not guarantee them any special legal statuses, the right to work is guaranteed to Jordanians only in the Jordanian constitution, while the right to work in the labor law is guaranteed to Jordanians and non-Jordanians, as the law does not differentiate labor rights between them, and under article 23 of the Residence and Foreign Affairs Law of 1973, foreigners who do not have valid residence do not have the right to work legally. It should be noted here that exceptions are granted based on the foreigner’s status and whether he/she is a political refugee or asylum seeker. This exception was mainly adopted for Palestinian refugees, **although Syrian refugees were allowed to work after The Donors’ Conference in London in 2016.** To accommodate Syrian refugees in the Jordanian labor market, the government launched a series of measures to facilitate the integration of Syrians into the labor market and to settle their legal papers to avoid legal accountability. This included granting them legal work permits that contribute to ensuring their presence in the country’s markets in an official manner that does not contravene the provisions of the Labor Law of the Kingdom, thereby avoiding any irregularities.

Accordingly, since 2016, Syrian refugees have been allowed to work in several economic sectors, following the international community’s pledge to provide financing and trade facilitation more broadly under the “Jordan Charter”, an initiative to improve access to education and legal employment for Syrians forced to flee their homes.

⁷ The strategy focuses on sustainable economic self-sufficiency through access to the labor market; empowerment through formal education, health care, expanded health insurance and social services; promoting targeted social assistance for the most vulnerable; See the Hashemite Kingdom of Jordan.

2021. National Social Protection Strategy (2019-2025). <https://www.unicef.org/jordan/media/2676/file/NSPS.pdf>

⁸ The full list of sectors open to migrant workers is on the Ministry of Labor website:

http://www.mol.gov.jo/EBV4.0/Root_Storage/AR/EB_Info_Page/%D9%86%D8%B3%D...

London Conference and granting Work Permits

On February 4, 2016, the United Kingdom, Germany, Kuwait, Norway, and the United Nations hosted the Donors' Conference in London, where members of the international community met and pledged their support to Syria and the region. The "London Conference" stipulated that Jordan be granted financial support and facilities for the \$1.7 billion national response plan to the Syrian refugee crisis, and that the European Union pledge to make concessions to simplify rules of origin for export to the European market.

The Response Plan for the Syrian Refugee Crisis became known as the "**Jordan Charter**". In view of the decline in humanitarian aid and the continuation of the refugee crisis, the Charter's objective was to bring more resources and aid to meet the immediate and long-term needs of those affected by the crisis. Donors therefore pledged funding to host countries affected by the Syrian crisis. In addition, the World Bank negotiated concessional financing agreements with countries hosting Syrian refugees and providing \$40 million in new loans to Jordan.⁹

It should be noted that the Charter excludes refugees from countries other than Syria, including Yemeni, Sudanese, and Iraqi asylum seekers, which limits their access to government services, employment, education, and health. Sixty four percent of refugees in Jordan live on less than 3 dinars per day, and 90% of refugee families use at least one negative coping mechanism such as reducing food intake or purchasing household goods through future debt in order to sustain their daily lives.¹⁰

Accordingly, the Jordanian Government has agreed to accommodate a specific number of Syrians in the labor market, estimated at 200,000, in return for increasing international investments, facilitating access to the European Union market for Jordanian exports, and obtaining several years' grants and concessional loans.

The 1998 Memorandum of Understanding between UNHCR and Jordan - renewed in 2014 - was therefore considered the legal document specifically directed towards the protection of refugees' rights in Jordan. The Memorandum of Understanding delegates all work on the procedure for determining UNHCR's recourse. This exempts the Jordanian government from any duties to involve itself in these procedures. The government adopts a similar definition of "refugee" in the Refugee Convention as provided for Article 1, and affirms that it is committed to international standards for the protection of refugees, including the right of refugees to remain in the country on a temporary basis, as stipulated Article 5 of the Jordanian Constitution, which affirms that the principle of non-refoulement is recognized and adhered to. As for work, Article 8 and 9 of the Memorandum of Understanding stipulate that:

9 UNHCR. 2017. Syria Regional Refugee Response Inter-agency Information Sharing Portal. Available at: data.unhcr.org/syrianrefugees/regional.php
10 Vulnerability Assessment Framework for Refugees in Jordan, UNHCR and the World Bank <https://bit.ly/3cNq3do>

Article 8:

"In order for the refugee to be able to provide a decent life for his family, the two parties agreed to grant the refugee who is lawfully present in the Hashemite Kingdom of Jordan the right to work for himself if the laws and regulations in force permit that."

Article 9:

"Refugees holding certificates recognized by the competent Jordanian authorities and wishing to practice liberal professions can also practice that profession if the laws and regulations allow it."¹¹

The memorandum affirmed that the right to work of Syrian refugees is governed by Jordanian labor law, except for regulations, instructions and decisions issued by the Ministry of Labor. The work of Syrian refugees is linked to Article 12 of the amended Labor Law No. (26) of 2010, but it should be noted that the UNHCR document issued to each registered refugee states that it does not entitle the holder to obtain a work or residence permit in Jordan and that the issuance of work and residence permits falls within the authority of the Jordanian government.

In conclusion, the London Conference considered an important shift in correcting the situation of Syrian refugees in Jordan. Syrian refugees were granted the right to enter the labor market, which means they were covered by the provisions of the Labor and Social Security Laws. Syrian refugees, **when** covered by social security, receive a range of social protections, such as unemployment insurance, maternity leave insurance, compensation for work injuries, and other social protections associated with social security.

In order to implement its commitments at the London Conference by providing decent job opportunities for Syrian refugees, Jordan worked on a package of measures adopted since 2016, including exemption from work permit fees (April 2016) and issuance of flexible work permits (not associated with social security until 2021). It allowed Syrian workers inside the camp to work outside the camp and obtain work permits, and for home businesses to be registered outside the camps and run independently without imposing the usual partnership with a Jordanian citizen, particularly in the field of food industries and handicrafts and sewing (November 2018). It also allowed for the automatic renewal of Syrian work permits (January 2019), issuance of flexible work permits to skilled workers and other workers in crafts, logistics and sales (September 2019). Lastly, Jordan extended social security to Syrian refugees with work permits and other measures that have contributed to the employment of Syrians and the implementation of Jordan's international obligations.

¹¹ Memorandum of Understanding between the Government of the Hashemite Kingdom of Jordan and the United Nations High Commissioner for Refugees in 1998, <https://qistas.com/legislations/jor/view/OTk1Njl=>

In order to benefit from this Agreement, it was necessary for the Jordanian industrial and development companies included in the agreement to employ a certain proportion of Syrian refugee workers, which was 15% of the total number of workers in each enterprise during the first and second years of the Agreement's entry into force, reaching at least 25% in the third year. The Agreement has been in force since its signature on 19 July 2016.

Pursuant to the Agreement, in March 2016, the Jordanian Ministry of Labor began granting work permits to Syrian refugees at a cost of 10 JDs, while the fee for issuing the migrant worker's work permit is 400 JDs.

After the implementation of the above-mentioned set of procedures, **the number of work permits amounted to 277,873 thousand for Syrian refugees to work in the local market from 2016 until the end of 2021.** Among those permits, approximately 35,000 permits known as "flexible work permits" were issued, which allow the worker to move between similar jobs in the same sector, between employers, or across the Kingdom's governorates. This is an additional benefit that is not permitted for migrant workers of other nationalities. This type of permit allows inclusion in the social security umbrella as a condition for completing the permit procedure insurance, old-age insurance, natural disability insurance and death insurance, and includes benefits from all insurances applicable in the Social Security Law if it meets any of the requirements.

Evolution of work permits grants

In order to enhance the involvement of Syrian refugees in the Jordanian labor market, the Jordanian government signed a Memorandum of Understanding with the General Federation of Jordan Trade Unions in June 2017, simplifying the procedures for issuing work permits for Syrian refugees in the construction sector. This Memorandum allows the issuance of work permits through the Federation without linking the worker to a specific employer, which prevents the exploitation of worker. In the same month, a list of financial coverage was issued by the Federation, providing an insurance policy for Syrian workers in the construction sector, in exchange for an annual subscription of 50 Jordanian dinars, paid to a private insurance company after the new amendments, and allocated to cover work injuries. The amount of coverage starts from 2,500 dinars in the event of a work injury and reaches 15,000 dinars in cases of total disability and death.

Accordingly, certain documents were specified for the Syrian worker to obtain a free construction work permit, which include: a copy of the service card for the Syrian community, a copy of the permit to practice the profession, a personal photo, and an insurance policy worth 50 Jordanian dinars, to be paid to the representative of the insurance company in the offices of the General Federation of Trade Unions, as well as an amount of 10 Jordanian dinars for audit fees of the work permit. The permit is then obtained within a period not exceeding one week.

Papers and fees vary depending on the type of work permit. In the case where the worker is actually employed by an employer, he needs to provide a photo of the Syrian Community Service Card "Security ID" and a copy of UNHCR's card, two personal photos, an amount not exceeding 12 Jordanian dinars, and audit fees for the transaction with stamps. The employer must be present, or a person legally acting on his behalf with a formal authorization, with the license of his profession and the commercial registration of his establishment. There must be an employment contract between the worker and the employer, and the profession must be open to Syrian workers.

In the case of applying for free work permits, the worker must submit a copy of the security ID, a copy of the UNHCR card, a personal photo, and a 50 JDs insurance policy, payable to the insurance company in the General Trade Union Federation's office. As for the agricultural work permit, it is subject to what is required for the free work permit, except for the insurance policy.

If the permit is renewed, the worker needs the same papers required to obtain the permit for the first time, taking into account the worker's payment of 10 Jordanian dinars for each year that has passed without renewal of the permit, in addition to the cost of the new year, which is 12 Jordanian dinars.

In the case of the transfer of employment between one employer and another, or from one profession to another, the Syrian worker needs the same previously submitted papers, taking into account whether the permit is expired. A prior employer's clearance is not required, and if the permit is valid, a clearance must be brought from the issuer of the permit according to its type. The clearance is provided free of charge.

Granting Work Permits to refugees in camps

In February 2017, the Jordanian Ministry of Labor issued a resolution for granting work permits to Syrian refugees in refugee camps and which enables them to work outside the camps in various Jordanian cities and return within a maximum of one month, then come out again. According to this decision, the Syrian worker, who lives in the camps, can leave without the need to request leave from the camp administration, as the work permit was considered a leave, and it was important to refer to the papers required to obtain work permits for Syrian refugees, which was not different from outside the camps.

The papers required to obtain work permits in the camps do not differ from outside, except for the "security ID" service card, which is considered for Syrians residing outside the camps.

Inclusion of Syrian Flexible Work Permit Holders in Social Security

On July 18, 2021, the Social Security Corporation decided to grant Syrian workers with flexible work permit inclusion in the Social Security umbrella. The matter is considered a condition for the completion of the procedure for obtaining the permit, which means that it covers work injury, unemployment insurance, old-age insurance, natural disability insurance and natural death insurance, and includes all the insurances applicable in the Social Security Law if meeting the requirements of any one of them. When the worker enters work and suffers a work injury, even if the injury is on the first day of work, he/she benefits from coverage for the treatment of the work injury. If the percentage of disability is more than 30%, he/she receives a salary; however, if it is less than 30%, he/she receives compensation. Additionally, the worker benefits from unemployment allowance if he/she does not find a job, has 36 subscriptions to the insurance, and has been paid salaries for temporary periods.

The worker benefits from the natural death salary if he/she dies two years after participating in social security. The worker also benefits from natural disability insurance if he/she suffers from a disabling illness after 60 months.

In order to receive all these insurances, the worker must pay 5.25% of their wage subject to deduction, but in the case of old-age insurance the worker must pay 16.5%. However, the worker can be included only in certain segments, paying only 10%, and this will include the options of 25%, 50%, 75% or fully inclusive (100%).

The Syrian worker is treated as an insured foreigner residing in the Kingdom, and when he/she leaves the country, he/she can obtain one-time compensation.

Flexible work permits give workers the freedom to choose their employer, which does not restrict them to a specific employer and gives them freedom to work. Of course, this raises the ceiling of social protection due to the existence of social security and the social security requirement to extract the work permit. However, Syrian workers may face challenges in the possibility of participating because they are required to pay the full amount of social security for a full year, which adds to the burden on workers, especially as some workers are employed in seasonal work for two or three months and will not receive an income until they pay the social security.

Challenges Facing Syrian Refugee Workers when registering with Social Security

When issuing a permit, Syrian refugees face several challenges related to the employer and their willingness to codify the status of their non-Jordanian workers, particularly whether their establishments have proper licenses and registration for their work.

On the other hand, Syrian refugees' fears may sometimes be unjustified, preventing them from issuing work permits, especially those related to the likelihood of losing the benefit of resettlement in a third country, or even losing financial and in-kind aid.

Syrian refugees may also face difficulties in issuing a clearance. Some associations exploit and deceive them into paying for permits, as well as prolong the period necessary for issuing permits, which exposes the worker to accountability during inspection campaigns by the labor directorates.

Tamkeen therefore emphasizes the need to strengthen social protection policies in all economic sectors for all Jordanian and non-Jordanian workers, and to reduce the informal nature of work more prevalent among refugee and migrant workers. Also, the government must ensure a fair and equitable labor market that provides fair wages and reduces the wage gap between Jordanian and non-Jordanian workers. This eases restrictions on refugees, enhances their involvement in the labor market, and takes advantage of their professional and practical experience in the development of the economic system.

Recommend:

1. Expanding the social protection umbrella and removing obstacles that impede the enrollment of refugee workers in the social protection system.
2. Developing an economic vision to reduce the phenomenon of employment in the organized sector.
3. Reconsidering closed professions and enhancing refugees' economic participation in the Jordanian labor market.
4. Ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as they are core legal documents that constitute the essence of dealing with refugees.
5. Establishing a national framework or laws regulating the work of refugees and asylum-seekers in Jordan.

Annex (1)

Required documents from the worker for work permit:

1. A valid service card for the Syrian community issued by the Jordanian Ministry of the Interior.
2. One personal photo.
3. A medical examination shall be carried out, provided that such examination is carried out in the departmental directorates and health centers approved by the Ministry of Health.

Required documents from the employer:

1. Certificate of registration of the enterprise or company.
2. Valid professional license.
3. A statement issued by the Social Security Corporation regarding the organization's registration with social security.
4. A statement issued by the Social Security Corporation including the names of the company's employees registered in the social security (the name of the employee joining the company for the first time will not be included in the list).
5. Two copies of the employment contract signed by both parties (employer and worker)
Each party keeps a copy.
6. The employer's personal identity card or authorization signed by the employer for the applicant.
7. A bank or legal guarantee for the company.
8. Summons form submitted to the Director of the Directorate concerned.

Documents required from owners of private farms to issue agricultural work permits:

1. A letter from the Director of Agriculture indicating the area of the agricultural land, the type of agricultural tenure, the agricultural life, and the method of irrigation.
2. Two copies of the work contract signed by both parties (the employer and the worker), and each party keeps a copy.
3. The personal identification card of the employer or an authorization signed by the employer for the applicant.
4. A recent copy of the land registration deed from the Land Department (Qushan) or the artesian water well license and clearance from the Water Authority.

Documents required from cooperative associations to issue flexible agricultural work permits:

1. Certificate of registration of the cooperative issued by the Jordanian cooperative corporation.
2. A letter from the Cooperative Association requesting the issuance of flexible agricultural work permits, including a list of the names of the workers to be issued permits.
3. An authorization letter from the association's management for the person concerned with issuing and receiving work permits.
4. A summons form submitted to the director of the concerned work director.

