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Bridging Legislative Gaps to Enhance Freedom of Association for Agricultural Workers in Jordan

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Introduction



The right to organize a union is considered one of the rights guaranteed by the Universal Declaration of Human Rights and the International Covenants on Civil and Political, Economic, Social and Cultural Rights. The Jordanian Constitution affirms the right to form unions in “Article (16)” “Jordanians have the right to form associations, unions and political ¹ parties,” and “Article (23)” “The state guarantees workers free union organization within the limits of the law ².”

By their nature, unions aim to defend workers’ rights by providing services and programs that provide a decent work environment for their affiliated members and interact with them and with all societal institutions in a positive manner, which enhances the quality of working conditions for the sectors represented by unions and reflects in a progressive manner on the wheel of the national economy.

In Jordan, workers in the agricultural sector specifically suffer from the lack of freedom to organize unions, as repeated demands over the past years to form a union for agricultural workers have been rejected. Despite the issuance of Agricultural Workers Regulation No. (19) of 2021 (after waiting more than 13 years), the regulation did not explicitly refer to the union organization of agricultural workers, and everything that was not stipulated in the regime was attributed to the provisions of the Labor Code³.

The amendments to the Labor Law of 2022 resulted in the issuance of a new decision to classify the industries and economic activities in which workers may establish unions to represent them, again without allowing the existence of new unions, and only including some sectors under the umbrella of existing unions. Workers in agriculture and agricultural holdings, whether plant or animal, were included in the Food Industries Workers Union. ⁴

In this context, this paper came to shed light on the consequences of depriving agricultural work-

ers of the freedom to organize a union, and the impact of the absence of a union organization for workers in this sector on depriving them of benefiting from dispute resolution tools and the right to collective bargaining, in contravention of Convention (98) regarding the right to organize. And the collective ⁵ bargaining ratified by Jordan, and with what the Jordanian Constitution affirmed that “the laws issued in accordance with this Constitution to regulate rights and freedoms may not affect the essence of these rights or affect their basics ⁶.”



Methodology

This paper is based on a study by the Phenix Center about labor market conditions and the needs of workers in Jordan's agricultural sector. The study involved examining relevant international and national literature, laws, and reports, as well as looking at national strategies and plans for agriculture. We used tools to gather numerical data from both employees and employers. Additionally, the study included twelve focused group discussions with workers and farm owners, and twelve detailed interviews with key stakeholders.

Analysis of the paper problem

1. Jordanian Labor Law

The provisions of the Labor Law fell short of achieving justice in the enjoyment of freedom of union organization by all workers, which directly affects their enjoyment of their labor rights, in contradiction to the Jordanian Constitution and the international treaties that Jordan has ratified in this context:



1.1 Limiting the establishment of trade unions to Jordanians

Non-Jordanian workers constitute the largest percentage of workers in the agricultural sector, and in light of the labor law restricting the freedom to establish unions for non-Jordanians, this appears to have a negative impact on the working conditions, negotiation and representation of non-Jordanian workers, making them more vulnerable to exploitation and inappropriate working conditions.⁷

Excluding non-Jordanian workers from the right to establish unions reduces their representation of their interests related to the specific circumstances of each work sector, and contradicts Article (97) of the Labor Law, which allowed workers in any profession to establish their own union and join it, and Article (8) of the Covenant. The International Committee for Economic, Social and Cultural Rights guarantees the right of every person to form trade unions in association with others and to join the trade union of his choice without restrictions.

1.2 Restricting the formation of unions and determining their classification

The Labor Law gives the Minister of Labor the right to classify the industries and economic activities in which workers may establish unions to represent⁸ them and limit them to a specific number. According to this decision⁹, agricultural

activity was classified within the General Trade Union of Workers in Water, Agriculture and Food Industries.

The method used to classify economic activities is no longer logical, as it ignores the economic development from which new professions and businesses have emerged. There are currently only 17 trade unions in Jordan, and no work has been done to expand their number in four decades, while there are approximately 100 employers' organisations, including chambers of commerce and industry, unions and employers' associations.

1.3 Deprivation of the right to collective bargaining

The Labor Law deprives the group of workers who are not affiliated with unions from benefiting from dispute resolution tools and the right to collective bargaining¹⁰. That is, thousands of unorganized workers, male and female, are deprived of the freedom to organize a union, including agricultural workers, male and female workers, day laborers, and seasonal or temporary workers, even though they are the largest group that needs to enforce the contents of the purpose of the existence of unions, which is to demand fair working conditions for workers. The reality indicates that they work in a work environment that does not meet occupational health and safety conditions, do not receive paid leave, and are not subject to social protections.



2. The unified regulation of trade unions

The Unified Regulation for Trade Unions¹¹ requires that whoever is nominated for membership in the administrative body of the trade union be of Jordanian nationality, and thus the body has the upper hand in issuing and implementing instructions and is allowed to control the unions for long periods of time with a quasi-governmental approach, and excludes from membership all migrant workers, including agricultural workers, so that there is an absence of fair representation of non-Jordanian workers compared to non-Jordanian workers.

This exposes migrant workers in the agricultural sector to greater vulnerability in accessing their rights, in light of the difficult working conditions in the sector.

3. The system of agricultural workers

The Labor Law's rules for forming unions also apply to agricultural workers. However, the 2021

Agricultural Workers Regulation doesn't clearly give them the right to create their own unions. Since these Regulations were published in the Official Gazette, there has been no progress in setting up a specific union for agricultural workers. Experts warn that this delay could harm labor relations and the overall union movement.¹²

4. Independent trade unions

Since the law limits the creation of new trade unions, workers have started organizing independently to protect their rights, outside the boundaries of the current labor law. This movement towards forming independent trade unions, including in the agricultural sector, began in 2011. However, these independent unions haven't been officially recognized by the government because of existing restrictions on union formation and operation. To be legally recognized, a union must go through a registration and classification process. Additionally, the Registrar of Unions at the Ministry of Labor can deny a union's registration without providing a reason.

Alternative policies

The proposal includes revising labor laws related to union formation and collective bargaining, guided by the Jordanian Constitution and international treaties Jordan has agreed to, such as the International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights:

1. Change Article (98), Paragraph (e) of the Labor Law to remove the current restrictions on migrant workers' rights to form unions.
2. Reevaluate and modify the Labor Minister's rules for classifying professions and industries eligible to form unions. The aim is to broaden the scope for union formation across various fields without predefining specific professions or industries.
3. Redefine what constitutes a collective labor dispute in Article (2) of the Labor Law. This change would allow all workers, not just those in unions, to access dispute resolution tools. Also, amend Article (44), Paragraph (b), to remove the requirement of having at least 25 employees in a company for collective negotiations with employers.
4. Update Article (45) of the Basic Law of the General Union and the Unified Law of Trade Unions 2020, to include migrant workers in the administrative bodies of trade unions.
5. Revise the regulations for agricultural workers to explicitly state their right to form unions and expedite the implementation of these changes.
6. Establish a clear and fair process for recognizing independent trade unions, including transparent criteria for the Ministry of Labor to follow when it chooses to deny union registration.

Recommendations

1. Ratifying the Freedom of Association and Protection of the Right to Organize Agreement No. (87) of 1947.
2. Develop a special law to regulate union work that includes all workers in the private and public sectors to address legislative imbalances regarding union organization.
3. Creating mechanisms that enhance the participation of migrant workers in unions and improve their position in the labor market, taking into account the full protection of their rights and confronting any forms of exploitation or discrimination.
4. Intensify education efforts and raise awareness about workers' rights in the agricultural sector, by providing information about union organizing rights, collective bargaining, and guarantees of migrant workers' rights.

References

- ¹ Jordanian Constitution, Article 16, Jordan
- ² Jordanian Constitution, Article 23, Jordan.
- ³ Agricultural Workers Regulations for the year 2021, Article No. (16).
- ⁴ The Jordanian Labor Observatory, on the recommendation of employers... new classifications for trade unions, 2022
- ⁵ Jordanian Labor Law No. 8 of 1996, Article (44), Jordan
- ⁶ Jordanian Constitution, Article (28/1), Jordan.
- ⁷ Labor Law No. (8) of 1998 and its amendments, Article (98) Paragraph E, Jordan
- ⁸ Labor Law No. (8) of 1998 and its amendments, Article (98) Paragraph D, Jordan
- ⁹ Resolution No. (45) of 2022 issued under the Labor Law.
- ¹⁰ Labor Law No. (8) of 1998 and its amendments, Article (44), Jordan
- ¹¹ The Basic Law of the General Union and the Unified Law of Labor Unions 2020, Article (45), Jordan.
- ¹² Abu Najma, Hamada, The right to organize a union and its impact on social protections for workers, Workers' House for Studies, 2022



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