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**Workshop report:**

**Migrant workers and the risk of exploitation and trafficking in Jordan**

20-21 April 2016

On April 21 and 22 2016, Tamkeen, the United Nations Office on Drugs and Crime (“UNODC”) and the Business & Human Rights Resource Center (“BHRRC”) organized a workshop in Amman, Jordan on “**Migrant Workers and the Risk of Exploitation and Trafficking in Jordan**”. The workshop aimed to provide a forum for experts and stakeholders’ representatives to discuss the national and international context of migrant workers and refugees in Jordan, including workers in the garment, agricultural and construction sectors. The gathering was also designed to explore ways through which relevant civil society organizations (CSOs), government and business can work together to reduce exploitation.

Over 30 individuals participated in the workshop, representing Jordanian civil society working on the rights of migrant workers through legal aid, advocacy and legal and institutional reform; and government representatives, in particular from the Human Rights Bureau at the Prime Minister’s Office, the Ministry of Justice, the Ministry of Labor and the Counter-Trafficking Unit. Other participants included representatives of trade unions, reporters specialized in migrant workers stories and representatives of international organizations (Ford Foundation, ILO, UNICEF, UNHCR) and foreign embassies (Egypt, Philippines, Sri Lanka, Switzerland and USA).

The workshop consisted of seven substantive sessions divided along the following lines:

1. Realities on the ground
2. Legal context
3. The business response
4. The government response
5. Trade union perspective
6. Civil society collaboration
7. Reporting on migrant workers

In **Session 1 (Realities on the Ground) and 2 (Legal Context),** CSO representatives with significant expertise on migrant workers issues, as well as government representatives from the Ministry of Justice’s Human Rights Bureau and the Anti-trafficking Unitinformed participants about the main challenges facing migrant workers on the ground and current legislative and institutional attempts to address them. The main difficulties highlighted included withholding travel and other official documents, hurdles with regards to unionization and organization, delay or lack of payment of wages, deportation, and the “race to the bottom” in work conditions triggered by the influx of refugees in recent years.

Participants explained that the seven years after the enactment of the 2009 Anti-Trafficking Law, there have been significant positive development on the legislative and administrative side. However, government representatives and CSOs agreed that several aspects of the 2009 Law should be amended, such as provisions related to the treatment of witnesses, expropriation of proceeds of crime, shelter, and other amendments, which are currently being considered. A further challenge is that there is a lack of reliable monitoring and follow-up on how prosecutors and courts apply the Anti-trafficking Law. A common criticism was that trafficking is usually couched in general Penal Code terms, without reference to the specific Anti-trafficking Law, and thus without benefiting from the special protections in the Law. The sessions also explained the challenges faced by the informal sector (e.g. lack of social security and inapplicability of Labor Law), while appreciating the incentives this sector provides to migrant workers and refugees.

In terms of legal remedies, and while the sessions witnessed a debate on how far the system has been developed, there was near consensus that the last year saw growing cooperation between CSOs and the Jordanian Labor Ministry in dealing with migrant workers who have complaints against employers, but who are themselves in violation of legal requirements, such as residency or work permits. Even if the workers are working illegally in the country, they can generally access judicial remedies. It was unclear though whether this is a general approach that can also be expected in police stations or among prosecutors in remote areas.

An important point of discussion was the identification of gaps in the Labor Law and its application to migrant workers. While the Law applies to non-nationals, migrant workers are unable to avail themselves of many protections due to legal and practical reasons. Furthermore, regarding the legal status of agricultural workers (one of the major sectors relying on migrant workers), while some participants pointed out regulations that supposedly bring them under the purview of the Law, there was consensus that this category of workers effectively falls outside of the Law’s protection, at least in terms of implementation. Tamkeen urged participants to collaborate with them on pushing and influencing the special legislative changes around agricultural workers that are currently being prepared.

**Session 3 (Business Response)** dealt with voluntary initiatives undertaken by businesses and efforts by international organizations to provide incentives to businesses to strengthen their commitment to migrant workers’ rights. The role and responsibility of business in light of the 2011 UN Guiding Principles on Business and Human Rights was highlighted on several occasions, with special emphasis on the responsibility of corporations for violations by different parts of their supply chain.

This session included a detailed discussion of the ILO Better Work Program, which has been rolled out in the garment and textile industries located in Jordan’s Qualified Industrial Zones (QIZ).

It also included a discussion of the experience of BHRRC in engaging the garment and textile industry on the supply chains in Turkey, with regards to the rights of refugees there. The discussion addressed questions such as the responsibility of corporations for violations in their supply chains, strategies to ensure corporate accountability and transparency including specific remediation plans tailored for vulnerable groups such as refugees.

In **Session 4 (Government Response)**,Government representatives from the Ministry of Labour and from the Anti-trafficking Unit identified key legislative and institutional shortages and described efforts to deal with those, including the proposed 2016-2025 Comprehensive National Plan on Human Rights, which tables detailed suggested amendments to 37 laws in Jordan. The session included debates on amendments to the Labor Law and the Anti-Trafficking Law that are currently being considered, including issues related to discrimination with regards to minimum wage. Echoing requests by representatives of foreign embassies in Jordan, government representatives also highlighted the need for educating both migrant workers *and* employers on their rights and responsibilities.

**Session 5 (Trade Union Perspective) and Session 6 (Civil Society Collaboration)** on the second day of the workshop started with a short presentation of the development of unionization and other forms of organization in Jordan’s QIZs, which currently house around 75 textile and garment industries. Jordan’s textile and garment sector is one of the biggest sectors in Jordan that receives migrant workers, and received severe criticism following the exposure of the harsh working conditions QIZ workers faced. This included working on holidays, working beyond the maximum legal limit for working hours, and having their travel documents confiscated by their employer.

Trade union representatives explained how they devised new tactics to gain access to migrant workers and build trust, including by opening offices in locations that are close to their factories and homes, in an attempt to circumvent past restrictions on workers’ movement. They explained how the services offered did not only focus on unionization, but rather extended to other issues such as education, training on rights and responsibilities, providing English and computer courses, as well as a space for social events. As opposed to the textile and garment industry, which has seen drastic improvements with regards to organization of workers, other sectors such as the agriculture and construction sectors still lack basic organization of workers.

A representative of the Textile and Garment Workers Trade Union explained how legal amendments to the Labor Law in 2010 allowed migrant workers to join trade unions. The ensuing debate at the session highlighted several problems that this amendment faces in practice, such as the fact that in Jordan only 17 trade unions are permitted, and thus the formation of new trade unions in general is nearly impossible. CSO representatives explained that they are working on ensuring the existence of minimum human rights standards in the new QIZs which are being created, and which will have a special focus on employing Syrian refugees. While there have been some developments on this front, such as the enactment of a Unified Contract for Syrian QIZ Workers, attention was also drawn on possible rifts between Syrian workers and migrant workers from other countries who feel that the former are receiving preferential treatment.

While the role of civil society had been discussed throughout all the workshop’s sessions, Session 6 saw specific focus of some strategies and tactics, such as legal aid. CSOs highlighted challenges they face in providing remedial relief to some migrant workers, especially since cases may go on for after a migrant worker returns to the country of origin. This is especially the case with non-payment of wages, where CSOs often end up paying the worker’s embassy after winning a case, with the expectation that that embassy would submit these proceeds to the worker.

The final substantive part of the workshop, **Session 7 (Reporting on Migrant Workers / Media)**, kicked off with two presentations by journalists who have worked extensively on migrant workers stories. The presentations dealt with case studies of migrant agricultural workers and workers in the quarrying sector in Jordan, highlighting several structural problems in both sectors, such as the control of migrant workers through physical retention of official documents and deceiving them as to what their legal rights and obligations are. This is especially worrying in the case of Egyptian agricultural workers (who represent the largest portion of agricultural workers in general in Jordan), who are under legal obligation to obtain their employer’s express approval every time they leave the country. The visual presentations showed the primitive conditions of some quarries and the significant lack of appropriate occupational safety and health safeguards.

The journalists explained that there has been little focus in the media on migrant workers, especially over the past five years, as a result of the increased attention on security and political issues. They highlighted the prevailing negative attitude of the media against significant sectors of migrant workers, especially domestic workers, and the lack of editorial policies when dealing with these issues. Stories around migrant workers are often couched as individual stories, rather than representative of a structural problem. The journalists also highlighted the benefits of partnerships between CSOs and the media, given that migrant workers are wary of communicating with journalists and are more open to it when a link is made through CSOs who have been working with them.

The workshop ended with a review of main issues and suggestions reached throughout the two days, which included the following:

**Session 8: Review and Recommendations**

1. The need to reinforce the implementation of existing laws
2. The importance of information-sharing among civil society organizations
3. Pushing for more business representation in similar meetings and highlighting the importance of corporate accountability, in parallel with state responsibility
4. The need to build on partnerships between civil society organizations, the media, and lawyers in order to push for legal and institutional reforms
5. Raising awareness of employers and increasing the understanding of cultural differences and specificities of migrant workers
6. The need to create a network to follow up on the implementation of these recommendations and to agree on upcoming actionable steps