

Forced labor and its Association With Human Trafficking

Tamkeen for Legal Aid and Human Rights





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Background

Forced labor is defined as “all acts or services forcibly imposed on any person under threat of any punishment, for which such person has not voluntarily performed”¹

Forced and bonded labor constitutes a violation of human rights and places a person who performs it in a position of slavery, which is a crime under international law.

Forced labor takes various forms, including slavery, one of the cruelest human practices continued to this day despite international and national instruments and legislation that prohibit and criminalize it. Certain economic conditions, such as poverty and unemployment, result in many women and children falling into so-called modern slavery, where a person is subjected to slavery and forced labor, such as child labor and human trafficking, often in violation of Human Rights Law, Labor Law, as well as health and safety regulations, and constitutes of inhuman treatment, low exploitative wages, and long working hours.

Common forms of forced labor are found in unregulated or labor-intensive industries, such as agriculture, fisheries, construction, manufacturing, and domestic work.

Following the First World War, interest in the phenomenon of forced labor, accompanied by the exploitation of individuals in forced labor in factories during that period, began to develop a wave of global interest in the phenomenon, **leading to the emergence of several international agreements that have dealt with forced labor in one way or another, including:**

1. The Slavery Convention of 1926, which considered forced or compulsory labor similar to slavery. This convention takes the lead in drawing the world’s attention to the phenomenon of forced labor and trying to combat it, which paved the way for the emergence of the International Labor Convention on Forced or Compulsory Labor of 1930.

¹ Convention No. 29 of 1930 on Forced or Forced Labor (Article 2)

2. The International Labor Convention on Forced or Compulsory Labor No. 29 of 1930, which is the first convention on forced or compulsory labor and considers forced labor a crime.
3. International Convention No. 105 concerning the Prohibition of Forced Labor for the year 1957, refers to the total prohibition of debt bondage. It also refers to the provisions of the 1949 Convention concerning the Protection of Wages, which stipulates that wages must be paid on regular dates and prohibits payment methods that deprive a worker of any genuine ability to quit work.
4. International instruments governing human rights, such as the 1948 Universal Declaration of Human Rights, which stipulated in Article (4) the inadmissibility of slavery and servitude to any person, and then affirmed in article 23-1 the right of the individual to work, and his freedom to choose work. Likewise, as stated in Article (8-3-a) of the International Covenant on Civil and Political Rights of 1966, no one can be compelled into forced or compulsory work.
5. The Fourth Geneva Convention of 1949, which affirms in article 40 the prohibition of compelling civilians to work for the occupying forces only concerning the needs of occupation or services of public interest. Article 51 further stipulates that persons under 18 years of age shall not be employed, in addition to giving the worker a fair wage commensurate with his physical potential and capabilities.
6. The 1973 Convention on the Suppression and Punishment of Apartheid, states in article 2/a that forced labor is racial if it is directed against members of a particular ethnic group and even a crime against humanity.
7. International Labor Organization (ILO) Conventions No. 138 and 182, which set out three categories of forced labor for children: unconditional child labor, such as forced labor and compulsory recruitment into the armed forces; work that exposes the child to physical and mental danger; and work performed by a child below the minimum age for such work (Bashir, 2011).

The International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work, adopted by the International Labor Conference at its eighty-sixth session on 18 June 1998, obligates all member states, even if they have not ratified any of the relevant international conventions, to the basic rights represented in freedom of association and the effective recognition of the right to collective bargaining, elimination of forced or compulsory labor, abolition of child labor and elimination of discrimination in employment and occupation.

Thus, the positive legislation concerned the worker's right to choose his employment and not to be compelled to work. That right had become a well-established principle of the International Human Rights System,² the International Conventions on workers' rights, specifically ILO conventions³ as previously mentioned. National Legislation has strengthened this right by enshrining and stipulating it in its national constitutions; for example, Article 13 of the 1952 Jordanian Constitution, which conforms with the 1966 International Covenant on Civil and Political Rights⁴, stipulates that: "No one shall be subjected to compulsory employment, but it is permissible according to the law to impose employment or service to anyone."⁵

It is worth mentioning that a study conducted by the International Labor Organization confirmed that migrant workers with low skills are "most vulnerable to forced labor in the Middle East", indicating that victims of human trafficking usually suffer from financial hardship as "they are heavily indebted and undereducated". According to the latest global estimates, there are 28 million victims of forced labor worldwide, of which 16 million are being exploited in the private sector, 4.8 million in forced sexual exploitation, and 4 million in State-imposed forced labor. The prevalence of forced labor is the highest in Asia and the Pacific, with 4 victims out of every 1,000.

Furthermore, as a result of the COVID-19 pandemic, many workers are at greater risk of falling into the trap of forced labor. According to the International Labor Organization's (ILO) report entitled *Profits and Poverty: Economics of forced labor*, the total profits of forced labor in 2014 were estimated at \$150 billion, of which \$99 billion came from commercial sexual exploitation, while the other third of \$51 billion resulted from forced economic exploitation, including domestic work, agriculture, and other economic activities.

In the Middle East, the organization estimated that there were 600,000 victims of forced labor, and that 3.4 thousand of the region's inhabitants were forced to work against their will. Nearly 50 million people lived under modern slavery in 2021, according to the latest *Global Estimates of Modern Slavery Report* by the International Organization for Migration.

2 Article 23-1 of the Universal Declaration of Human Rights of 1948 stipulates that "everyone has the right to work, to free choice of work, on fair and satisfactory terms and is entitled to protection against unemployment." Article 8, paragraph 3 (a), of the 1966 International Covenant on Civil and Political Rights stipulates that "no one may be compelled to perform forced or compulsory labor".

3 In particular, conventions against forced or compulsory labor, such as the Forced Labor Convention No. 29 of 1930.

4 Article 8, paragraph 3 (c), of the International Covenant on Civil and Political Rights of 1966 provides that: "Forced labor or compulsory labor" shall not include:

- a. Unintended acts and services of subparagraph (b) which are normally imposed on a person arrested as a result of a judicial, legal, or other decision against whom a such decision has been made, and who has been conditionally released.
- b. Any service of a military nature, as well as, in countries that recognize the right of conscientious objection to military service, any national service imposed by law on conscientious objectors.
- c. Any service imposed in cases of emergency or calamities threatening the community's life or well-being.

5 The Jordanian Constitution <https://bit.ly/3IMnq8V>

Forced labor in Jordan

Forced labor is an offense that no State has been able to fully eliminate despite the continued efforts to combat it at the international and local level, and the attempts at seeking a decent working environment for all workers around the world. **Similar efforts were made in Jordan**, where it developed its first law on this matter in 1929 when it announced the abolition of the Slavery Act. The law is one of the oldest in Jordan and has never been amended. The law abolishes traditional forms of slavery and does not mention modern forms of crime. In addition, Article (77) Paragraph (b) of the Jordanian Labor Law No. (8) for the year 1996 and its amendments, stipulates that an employer who employs any worker under force, threat, fraud, or coercion, including withholding the travel document, shall be liable to a fine of 500 to 1,000 dinars, in addition to any penalty stipulated by another law.

Although the Jordanian Constitution prohibits forced labor in article 13⁶, which entails that it is a punishable offense under article 7/2, there is no provision in the Jordanian Penal Code or other penal laws to criminalize forced labor, and the international conventions obliging States to criminalize certain acts, as in the case of forced labor, can be applied directly based on the principle of no crime and no penalty except by stipulation where the crimes may not be measured. Regrettably, the current Penal Code draft did not pay attention to this issue.

Forced labor in Jordan is not limited to a particular category, although it is more evident in some sectors than in others, such as agriculture, domestic work, and qualified industrial areas, where migrants, refugees, women, and children alike work. Accordingly, the Jordanian Government has endorsed regulations and legislation governing employment in these sectors, but this has not limited forced labor practices.

6 The Jordanian Constitution <https://bit.ly/3IMnq8V>

Definition of forced labor

Forced labor is often a form of human trafficking and may be more difficult to define than other forms of human trafficking.⁷ However, **the International Labor Convention No. (29) of 1930 concerning Forced Labor** is the most important source of its definition. Article 2 of the Convention defines it as:

“All acts or services forcibly imposed on any person under the threat of any punishment which that person has not volunteered to perform of his own free will.”⁸

The aforementioned definition includes three elements: the works or services that are performed in a non-voluntary manner, the person who is subject to forced labor, and the threat of punishment. This is detailed as follows:

1. Any act or service imposed on any person:

Actions by individuals are beyond their will and compulsory because a person’s rights are taken away under unprecedented circumstances that impede his or her ability to earn a livelihood or live a dignified life.

Individuals may be any person, regardless of age, gender, or legal status, whether a citizen, immigrant, or refugee of different nationalities acting formally or irregularly.

2. Under threat of any penalty:

We must consider the threat from the worker’s point of view because the penalties are not limited solely to criminal or penal offenses and take several forms: loss of rights and privileges; physical, psychological, and sexual violence; the threat of death to both parties; financial penalties related to fictitious debts or wage deprivation; long working hours; deprivation of food or water; and other forms of threats that may be used.

3. None of these acts are carried out voluntarily:

In the case of involuntary forced labor, the employee’s consent does not mean that he/she is admitted to work in such circumstances, but rather that he/she was lured without awareness or prior knowledge through a form of fraud. One aspect of such work is in the payment of a debt or enslavement by the spouse, guardian, or employer.

⁷ Ramia Muhammad Shaer, *Human Trafficking, (a social legal reading)*, Al-Halabi Human Rights Publications, Beirut, first edition, 2012, p. 12
⁸ Convention No. 29 of 1930 on Forced or Convention Labor (Article 2)

* See the cases in which forced labor is not included in the 1930 Convention, e.g. military service

Forms of forced labor

- **Debt bondage**, according to the 1957 Convention, is the settling of accounts and debts that do not exist in truth to make a person a victim of exploitation for services provided by force. It is not specific, and if it is within a time frame, it is forged.
- **Slave trade**, forced service, and all acts involved in any person's detention or conversion into slaves to sell them to others as a type of trade and exchange in order to consider them as commodities.
- **Slavery** under the 1926 Convention on the Exercise of Property Rights over Persons.
- **Organized criminal groups** (under Article 2 of the United Nations Convention against Transnational Organized Crime) to obtain material gains, usually by criminal gangs such as women's and children's prostitution and sexual networks.
- **The trade of human organs** through an assault on the body and individual dignity, and by unconsensual removal of organs, such as the cornea and kidneys.
- **Forced sexual exploitation** is similar to commercial sexual exploitation. Women who engage in prostitution regardless of the lawfulness of the activity are in forced labor because they work against their will. For children, when a person under the age of 18 is used to perform a sexual act, this constitutes a criminal act.

New Commitments to Prevent Forced Labour⁹

The ILO Protocol No. 29 of 2014 on Forced Labor strengthens the international legal¹⁰ framework by imposing new obligations that prevent forced labor, protect victims, and allow them access to remedies such as compensation for material and physical harm.

The protocol requires governments to take necessary measures to better protect workers, especially migrant workers, from fraudulent and abusive recruitment practices, and stresses the role of employers and workers in combating forced labour.

Among the prevention measures in the new forced labor protocol are the enactment of national labor plans, broadening the scope of labor laws to extend to the threat of forced labor, improving labor inspection measures, and protecting migrant workers from exploitative recruitment practices. The new treaty also requires governments to support the due diligence that workplaces take to prevent and deter forced labor during workplace operations. The International Labor Organization estimates that 90% of forced labor occurs in the private economy.

The treaty requires governments to take measures to locate, release and assist victims of forced labor, as well as to protect them from retaliation.

Article 4 also obliges governments to ensure that all victims – regardless of their legal status or whether they are inside or outside the country – have access to justice and all means of redress and compensation, including financial compensation, in the country where the violation occurred. Currently, migrants who do not enjoy legal residence or have returned to their countries face significant obstacles in filing complaints with the authorities, pursuing court cases, or even obtaining their back wages due to restrictive immigration policies.

Article 4 also requires governments to ensure that victims of forced labor are not prosecuted for illegal activities. For example, immigration violations, sex work, drug crimes, and violent crimes, which may have been forced to commit as a direct result of forced labor.

9 Human Rights Watch <https://bit.ly/3SajVMs>

10 ILO Protocol No. 29 of 2014 on Forced Labor <https://bit.ly/3k8VWAA>

Categories most vulnerable to forced labor

Based on the aforementioned, we will refer to those who are most vulnerable to forced labor and the violations they are exposed to, especially since the majority of them are non-Jordanian workers and work in several sectors, including but not limited to: agriculture, industry, construction, clothing and textiles, utilities and services and the entire private sector such as companies.¹¹ Migrant workers, women, and children are the categories most vulnerable to forced labor.

Women/domestic workers

Women, especially domestic workers, are employed in jobs that make them more vulnerable to violations, as the workplace and residence itself exposes them to several violations. They are exposed to strong indications of forced labor, including: deception about the nature of work; forced recruitment linked to debt or economic status; deception based on the working conditions, content and legality of the employment contract; housing and living conditions; legal status; workplace; restriction of movement and communication with others; degrading working and living conditions; obliging the worker to work in the employer's private home or for other family members; and the denial of termination of the contractual relationship.

In detail, domestic workers are subjected to several violations. According to the complaints submitted by the workers to Tamkeen, they are as follows:

- **Reservation of documents**

Reserving identity documents is a common factor among all migrant workers, and domestic workers in particular. Workers who have submitted complaints to Tamkeen confirmed that they do not carry any personal identification documents, whether a passport, residence permit, or work permit, and that these documents may be in the possession of employers or recruitment offices. Employers and owners of recruitment offices do not deny that they confiscate the workers' documents, under the pretext that it is the sole guarantee to keep the worker at home, without escaping and/or returning to her country. In other words, the worker remains hostage to them, noting that the seizure of these documents does not prevent women workers from escaping from the workplace. In many cases, the worker is unaware of where her passport is, and whether it is with the employer or at the recruitment office, as it is taken from her as soon as she enters the country.

The seizure of the passport is an explicit violation of Article (4/12) of the International Covenant on Civil and Political Rights. It is also considered a violation of article 18 of the Passports Act No. 3 of 2002 and Article 222 of the Jordanian Penal Code, which constitute an obstacle to the worker's return to her home country. However, accessing justice remains difficult for the worker as without her documents, she has no proof of her identity.

¹¹ According to the complaints received by Tamkeen for Legal Aid and Human Rights

- **The worker does not keep a copy of the employment contract**

The majority of domestic workers do not have a copy of the employment contract signed in their country, and which is confiscated by the recruitment offices as soon as they enter the country. It is, therefore, difficult for the worker to prove her rights under the terms of the employment contract.

- **Verbal and physical abuse**

Many domestic workers are physically abused, such as being beaten by some employers and recruitment offices. This may be due to the employer thinking that their work is inadequate or due to their refusal to work. Some workers are also subjected to having their hair cut, which is an insult to their dignity.

Verbal abuse affects most female workers, and strangely, they often become accustomed to such abuse because of their inferior perception.

- **Right to terminate the employment relationship**

The Ministry of Labor requires the consent of the original employer, who is often arbitrary in granting such consent or claims the amounts paid or additional amounts in which such practices promote the employer's control of the worker and the absolute dependence of the employer. Also, in the event of the death of the employer, the Ministry of Labor requires the consent of his heirs to move to another employer.

Therefore, Tamkeen finds that these practices of the Ministry of Labor enshrine the principle of the absolute dependence of the worker vis-à-vis the employer and continue even after his death. Article 6 of the International Covenant on Economic, Social, and Cultural Rights emphasizes the need for the worker to freely accept his/her work.

- **Fines**

The failure of some employers to comply with their obligation to issue a work permit and a worker's residence permit puts the domestic worker in an illegal position. Additionally, they are unable to return home due to accumulated residency fines. The worker cannot obtain a work permit and residence permit on his/her own as it must be issued by the employer himself or one that he/she authorizes. If the papers are not submitted by the employer, the penalty shall be imposed on the worker, who is liable to arrest for a violation of the Law on Residency, and which incurs fines at the rate of one and a half Jordanian Dinars per day. The standard labor contract stipulated the employer's obligation to issue the residence permit and the work permit annually at his expense. In contrast, he is obliged to pay all the fines provided for in Article (34) of the Residence and Foreigners Affairs Law; however, in practice the penalty falls on the domestic worker and is punished by depriving him/her of leaving the country unless they pays their consequence. This is an explicit violation of Article 12/b of the International Covenant on Civil and Political Rights, which states that "any person has the right to leave any country, including his own, freely."

- **Long working hours and vacation deprivation**

Domestic workers suffer from long working hours that may exceed 16 hours per day. During Tamkeen's work, it was found that the worker comes to Jordan through a recruitment office without having any information about the nature of the work required of her or the family that wishes to hire her, especially as the duties of a domestic worker according to the prevailing concept may include cleaning, caring for children, elderly people and patients, and preparing food. Therefore, most workers suffer from long working hours, in addition to being deprived of their weekly day off.

- **Non-payment of wages and overtime:**

Domestic workers endure all kinds of violations in order to provide money for their families, but some workers suffer from employers delaying payment of wages or not paying them at all. Some employers deliberately delay payment of wages, especially in the first months after the worker's arrival, under the pretext of ensuring her suitability for the job, and if she is deemed unsuitable, the wages are deducted as compensation for the employers. It has also been revealed that sometimes an agreement is made between the employer and the recruitment office to reduce the worker's wage mentioned in the contract without the worker's consent. Additionally, no worker who has been received in Empowerment has received any payment for overtime work.

- **Forced confinement at the employer's home**

The worker is not allowed to leave the home, which is considered a reservation to liberty and deprivation of freedom of movement, It remains against the employer's will, which makes it extremely difficult to report violations against her. In addition to psychological and social difficulties if subjected to physical abuse or sexual abuse. Forced detention also constitutes an obstacle to the worker's claim to her rights or to proof that she is subjected to abuse, especially since she may be able to escape until several days after the abuse.

- **Not receiving health care**

Some women workers complain about the deduction of health care expenses from the monthly wage, and in some cases the employer refrains from providing appropriate health care to the worker, if the employer determines that the situation of the worker is in need of non-treatment, he shall return her to the Office of Recruitment and Employment, here, the Office's exploitation phase begins, forcing her to work as a day laborer to pay the costs of her recruitment or any other expenses.

Children

Many children of migrants, refugees, and the poorest citizens are subjected to forced labor, especially in the absence of the family breadwinner as the child becomes obligated to perform family breadwinner functions. Despite child labor being riddled with violations, children are unable to withdraw from the working environment due to their sense of duty towards their families and having to provide a living.

Child labor is illegal in most countries, but some countries such as Jordan provide it with certain conditions. A child of 15 years or more is allowed to work for 6 hours per day under certain conditions, including having a guardian's consent, working in sectors that do not pose a risk to the child, and providing at least two hours of rest per day.

The National Framework for Reducing the Situation of Child Workers and Beggars defined child labor as "every intellectual or physical effort made by a child with or without pay, whether it is permanent, occasional, temporary or seasonal, and is considered harmful to him or her, and is carried out at the mental, physical, social, or moral level, which interferes with his or her studies, and denies him or her opportunities to persevere in learning and studying, by forcing him or her to drop out of school prematurely."¹² A child is considered to be anyone under the age of 18.

Children are used or employed in work environments that, by their nature or because of the circumstances in which they are practiced, harm their health, safety, or moral behavior, such as prostitution, the production of pornographic material, and illegal activities, such as the production and trafficking of drugs and all forms of slavery or practices similar to slavery. For instance, the sale and trafficking of children, the servitude of religion, serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict, is one of the worst forms of child labor as defined by the Worst Forms of Child Labor Convention, 1999, No. 182.¹³

¹² Child Labor Monitoring Report, Tamkeen

¹³ Convention No. 182 concerning the Worst Forms of Child Labor, 1999

Migrant workers and refugees

The conditions that prompt refugees or migrants to come to host countries vary, where refugees are forced to arrive and are often unable to return to their countries due to political conflicts, wars, and political or social affiliations. Migrant workers come to seek a livelihood and can return to their countries where they wish to do so, although the living conditions of refugees and migrants are similar to violations in both categories.

Migrants are subjected to forced labor and human trafficking for labor exploitation, including deception or fraud. This applies to the sale of work visas for fictitious jobs that exist only on paper or the Internet, and violations of the threat of deportation, detention, and exploitation of workers' vulnerabilities through the employment of workers in irregular situations, threatening to not renew a work permit or residence permit, or not allowing them to leave the country. In some cases, victims are persuaded that their families have cut off their communication, are isolated them from their surroundings or are dumped with debts so that they cannot return to their country.

As for refugees, Jordan hosts 761,850 refugees from a total of 52 nationalities, including 675,433 Syrians, 65,899 Iraqis, 12,903 Yemenis, 5,583 Sudanese, 655 Somalis, and 1,377 other nationalities registered with UNHCR¹⁴. Jordan hosts the second largest proportion of refugees in the world compared to the number of citizens after Lebanon, as 1 in 3 of Jordan's population are refugees. It also has the fifth largest refugee population in absolute terms, according to the United Nations High Commissioner for Refugees (UNHCR).

The integration of refugees into the labor market is based on four perspectives: the Host State's Perspective reflected in the legal regulations on the employment of refugees; the Refugees' Perspective indicating their access to the labor market and the challenges facing them; the Host Society's Perspective of recognizing, approving or reacting to the employment of refugees; the Donor Perspective that emerges from the intervention of international actors through development assistance or public support for refugees' labor rights.

Since 2016, Syrian refugees have only been allowed to work in several economic sectors, after the international community pledged to provide financing and trade facilitation more broadly under the "Jordan Agreement", an initiative to improve access to education and legal employment for Syrians forced to flee their homes.

Sectors in which Syrian refugees work include agricultural, industrial, food installations, services, and the construction sector, which are among the occupations in which expatriate employment is permitted, without allowing them to work in closed occupations only for Jordanians.

The Ministry of Labor has provided **283,000 work permits for Syrian refugees to work in the local market between 2016 and the end of 2021 last year.** The year 2021 witnessed a steady increase in the number of permits granted to Syrian refugees as it reached 62,000 permits, a record of the number of permits granted to them after they were allowed to work in the local market. These numbers were higher than 2020, the year before, which, according to the Ministry of Labor's statistics, recorded 38,000 permits, of which 31,000 are known as "flexible work permits". These permits allow workers to move between similar jobs in the same sector, and between employers and across the governorates of Jordan, an additional advantage that is not permitted for workers from other nationalities.

Although Jordan provides Syrian refugees with access to decent work opportunities, significant challenges remain, including many violations in the working environment, such as wage deprivation, low wages, long working hours, the denial of public and annual holidays, and other violations.

Non-Syrian refugees in Jordan face difficult living challenges and their suffering is compounded by the fact that they are not allowed to work legally, which makes them poorer, especially those suffering from diseases that need treatment at high financial costs. Furthermore, non-Syrian refugees are not allowed to work; thus, refugees find themselves unemployed in difficult living conditions, resulting in poverty and an inability to integrate, return to their homes, or settle in a third country. If they do work, it is illegal and involves great exploitation by employers who push for their forced employment under abusive working conditions.¹⁵

Human trafficking

Against this background, human trafficking in all its forms has become one of the most important crimes of international, regional, or national legal concern. Because of the importance of confronting this crime, the United Nations has classified it as one of the most prominent forms of international organized crime through the (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Children, and Women). The Protocol defines trafficking as: **“the recruitment, transportation, transfer, harboring, or receipt of a person utilizing the threat or use of force or other forms of coercion, abduction, fraud, or deception for exploitation.”**¹⁶ Several international conventions have been concluded, including the United Nations Convention against Transnational Organized Crime of 2000 and the Protocols thereto, the most important of which are: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (or as known as the Palermo Protocol), which contained the first definition of the crime of human trafficking.

We note here that the Protocol does not contain a separate definition of crimes such as sexual exploitation, forced labor, or practices similar to slavery, and signatory States are obliged to define these terms within their domestic legislation.¹⁷ The Palermo Protocol defined the types of exploitation to include:

Sexual exploitation: the term sexual exploitation encompasses various forms such as forced prostitution, abuse of power or force on individuals to engage in prostitution, and sexual exploitation of children or incompetents. Individuals can be sexually exploited in streets, bars, massage halls, escort services, private homes, brothels, pornography, child pornography, private clubs, and forced marriage.

The exploitation of the labor force: includes forced labor, slavery, or practices similar to slavery. The Protocol has incorporated a wide range of exploitative practices that may be practiced against workers.

Organ trade: to exploit anyone to remove organs for trading.¹⁸

Jordanian Law No. 10 of 2021 amending the Law on the Prevention of Human Trafficking No. 9 of 2009 is defined in Article 3 of paragraph (a). The definition is consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women, and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000 in terms of:

¹⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Children, and Women

¹⁷ United Nations Convention against Transnational Organized Crime

¹⁸ Protocol to Analyze Basic Concepts of Trafficking in Persons, United Nations (2010)

Act: attracting, transporting, harboring, or receiving persons.

Means: by threat or use of force, coercion/abduction/fraud/deception/abuse of authority or vulnerability by giving or receiving sums of money or benefits.

End: exploitation, which is to coerce a person and provide him/her with false information to serve another person's interests.

- A. Child trafficking: Recruiting children for sexual exploitation such as prostitution, forced labor, forced service, slavery, and the removal of organs.
- B. Forced labor: Work and services that a person is forced to do under threat.
- C. Compulsory labor: Services performed by the worker in conditions of servitude, especially loan and servitude due to debt.

Human trafficking is based on the exploitation and enslavement of individuals in several areas, including **forced labor** (compulsory labor, debt enslavement, domestic work, child labor, recruitment, and begging), and it is therefore essential when talking about forced labor to refer to its relationship to human trafficking.

Association of forced labor with human trafficking

It is important to understand that not all forced acts result from human trafficking, while almost all cases of human trafficking lead to forced labor, and forced labor is the second most widespread form of human trafficking, accounting for 34% of victims of human trafficking.

To illustrate this, forced labor includes a range of activities involved in a person's use of force, fraud, or coercion to obtain another person's work or services. The element of **"act"** is met in forced labor when the trafficker recruits, shelters, transports, provides or obtains a person for work or services; the **"means"** element of forced labor includes the trafficker's use of force, fraud, coercion, or threat of force, withholding of wages, confiscation of identity documents, psychological coercion, reputational harm, manipulation of substances, a threat to other persons or other forms of coercion. Lastly, the **"end"** is the offender's objective of securing work or services. All three elements are essential to the formation of the crime of forced labor and human trafficking.¹⁹

Therefore, the majority of those who are exploited by forced labor and which contain the three elements of human trafficking (act, means, and end) become victims of the crime of human trafficking, which means that there is a close relationship between the two crimes.

Recommendations

The crimes of forced labor and human trafficking are universal, and no State is immune from them. International legislation is therefore concerned with combating and countering this crime by urging States to criminalize forced labor and human trafficking and punish it with a criminal penalty.

- To reduce forced labor and protect workers from becoming victims of exploitation, this concept paper suggests that:
- Using safe recruitment and employment based on a rights-based approach to prevent employment in the informal sector and abuse of migrant workers.
- Making the penalty for forced labor consistent with the gravity of the act committed.
- Strengthening social protection floors to protect poor families from forced labor in the event of sudden income shocks.
- Investing in education and skills training to promote employment opportunities for vulnerable workers.

