

# LEADERS

For Sustainable Livelihoods

## DIGNITY AT STAKE: CHALLENGES TO ACCESSING DECENT WORK IN LEBANON

DISCUSSION PAPER



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## 1 / EXECUTIVE SUMMARY

With a history of conflict and one of the highest rates of wealth inequality in the world, Lebanon already faced considerable challenges prior to the impacts of the Syria crisis: gaps in public service delivery, unemployment, poverty, chronic governance issues, corruption, gender inequality, and a lack of social protection mechanisms. High GDP growth rates in the past did not translate into enough job creation to keep up with the number of Lebanese entering the labour market, and those jobs that were created were mainly low-skilled. Both factors have contributed to the persistence of high poverty rates, despite Lebanon being a middle income country. The Syria crisis has exacerbated pre-existing labour market challenges. Since the onset of the crisis in 2011, GDP growth has fallen from an average of 9% per year to less than 2% per year, exports are estimated to have decreased by one-third, and key economic sectors such as tourism have suffered. In addition, Lebanon now hosts the largest number of refugees per capita in the world: an estimated 1.5 million Syrian refugees and more than 30,000 Palestine refugees from Syria (PRS), alongside a pre-existing population of nearly 280,000 Palestine refugees in Lebanon (PRL).

Within this already complex political, demographic, and economic context, major challenges exist to establishing a decent work environment for all workers in Lebanon, including: gaps and contradictions in the legal framework, little enforcement of working conditions and social protection mechanisms, entrenched discrimination on the basis of gender and national origin, barriers to workers accessing legal redress, and a general lack of awareness of workers' rights. Further complicating the situation is the fact that the Lebanese economy has a very high (and increasing) level of informality, and a significant share of the Lebanese labour market has long been reliant on poorly protected non-Lebanese workers (an estimated 200,000-600,000 Syrians worked informally in Lebanon prior to the crisis and the country currently hosts more than 200,000 migrant workers from Asia and Africa under the kafala system).

Research and analysis conducted by Oxfam in 2017 as part of the LEADERS consortium in Lebanon points to critical gaps with respect to contracts, minimum wage, and social protections through the National Social Security Fund (NSSF). With respect to the minimum wage, it is both poorly enforced and set at an amount that is inadequate to keep families out of poverty. With respect to the NSSF, it fails to provide some key social protections (such as unemployment benefits and healthcare for retirees) and entire large groups of workers (such as self-employed workers and agricultural workers) are excluded from participating in or benefiting from it at all. In addition, poor enforcement means that many workers who are eligible for NSSF are not registered in the system by their employers: approximately half of the Lebanese respondents in Oxfam's research with workers in the construction, food services and agro-industry sectors in the Bekaa Valley reported not being registered with NSSF.

Only 17% of respondents in Oxfam's research in the Bekaa Valley had written contracts. Lebanese law allows for employment contracts to be written or verbal, and nearly a third of respondents reported having verbal contracts. However, as proving the existence of a verbal contract can be difficult, in practice these undocumented contracts provide little or no protection to the worker. In addition, half of the research respondents reported having no contract at all. These respondents were more likely to be Syrian, have lower levels of education, and/or work in a small or micro enterprises. The research also showed that having a contract – the more formal the better – makes a real difference with respect to decent work: respondents with written or verbal contracts were less likely to be paid less than the minimum wage and more likely to be registered with NSSF.

Gender discrimination is built into the system. Oxfam's 2017 working conditions research in the Bekaa Valley found that women systematically earn less than men in the agro-industry and food services sectors. Despite Labour Law reforms that were intended to prohibit dis-

crimination on the basis of gender, mechanisms were not put in place to reduce unfair practices, there are no protections against sexual harassment in the workplace, and certain aspects of the legal framework remain gender discriminatory. A prime example of this is that while the NSSF requires women to pay in the same amount as men, it offers women less remuneration and less family coverage than men, solely on the basis of gender. Oxfam's 2016 social protection research also found that home-based work – which is not covered by NSSF – leaves many women without health or maternity benefits when they seek income earning opportunities that enable them to simultaneously meet their caretaker responsibilities.

Discrimination against refugees and other vulnerable non-Lebanese workers is also part of the system. Palestine Refugees from Lebanon (PRL) face serious difficulties in obtaining work permits, despite that they have been born in Lebanon and lived in the country their entire lives. If they obtain a work permit, they are required to pay in the same amount to NSSF as Lebanese citizens, but do not receive the same benefits out (if they receive any benefits at all). In addition, a large number of professions are reserved for Lebanese citizens, and even PRL are barred from more than 20 types of work, such as engineering, medicine, accounting, and law. Syrian refugees are even more restricted to only the agricultural, construction and sanitation sectors. Furthermore, agricultural work and domestic work – both of which are dominated by vulnerable non-Lebanese workers – are systematically excluded from the protections of the Labour Law.

Syrians have long worked informally in Lebanon, generally in poor conditions and with little or no protection. However, in the past Syrians had freedom of mobility in Lebanon and were able to return to their home country if necessary. Now, nearly all Syrians in Lebanon are refugees, an estimated 80% of whom lack valid residence permits, and for whom returning to Syria is not a safe option. As a result of the government's response to the refugee influx, the economic activity of Syrian refugees is

currently de facto regulated by the framework governing Syrian residence in Lebanon and Ministry of Labour Decisions indicating the sectors in which Syrians are permitted to work. At the beginning of 2015, the Government of Lebanon introduced new regulations which provide two main pathways for Syrians to obtain residence: 1) on the basis of a valid UNHCR registration certificate (if they are among the roughly two-thirds of refugees who have one), or 2) on the basis of sponsorship by a Lebanese citizen. Oxfam's working conditions research in the Bekaa Valley found that although just over half of the Syrian refugee respondents were registered with UNHCR, all of the Syrian refugee respondents who have residence permits have them through sponsorship (i.e., not via their UNHCR certificate). This confirms observations from protection monitoring, which has found that it is extremely difficult for refugees who are working (or suspected of working) to obtain residence on the basis of UNHCR registration.

The current residency framework is such that Syrian refugees are subjected to workplace exploitation regardless if they are working without a residence permit or if they are working on a sponsorship residency. For refugees who lack valid residence permits, this is a criminal offence for which they can be arrested. This makes them vulnerable to arrest when they move to find work, and also vulnerable to exploitation by employers because they can be reported to the authorities for any reason. For refugees who have residence via sponsorship, the sponsor is responsible for their legal status, work permission, healthcare and accommodation, and thus holds considerable control over the refugee. Sponsored refugees report being required to abide by certain exploitative conditions to maintain their sponsorship (and hence their residence). Significantly, Oxfam's research in the Bekaa Valley found that Syrian refugee respondents with a sponsor were more likely to be paid less than minimum wage (79%) than Syrian refugee respondents who do not have a sponsor (49%), despite that the latter are working without valid residence permits.

The results of policies that discriminate against refugees are evident: Oxfam's research found that while 30% of Lebanese respondents had written contracts, only 4% of Syrian respondents did; and in 2012 ILO found that less than 20% of PRL workers had written contracts. Similarly, Oxfam's research found that Syrian workers systematically earn less than Lebanese workers across all three economic sectors surveyed: 75% of Syrian respondents reported earning less than the minimum wage, compared to 39% of Lebanese respondents. Syrian workers are also more likely to work longer hours than Lebanese, which is linked to the fact that many Syrians are confined to working in sectors such as construction and agriculture, which report long working hours overall. In addition, comparisons between cities in the Bekaa Valley that have quite different percentages of Syrians with sponsorship appear to indicate that the sponsorship system does indeed drive worker wages down.

There are mechanisms which are intended to ensure enforcement of the Labour Law and to provide workers with access to redress in the case of violations. However, many of the key bodies that are intended to enforce the law and adjudicate disputes have either not been properly activated or not been properly capacitated to fulfil their roles. In addition, many workers and employers are unaware of the rights workers are entitled to and/or the pathways for legal redress: 86% of respondents in Oxfam's research in the construction, food services and agro-industry sectors were unaware of the legal appeal mechanisms that are available.

Workers face both formal and informal barriers to accessing redress mechanisms. One major barrier is that workers without written contracts need to be able to prove the existence of a verbal contract, which is often very difficult to do. Power dynamics also create a barrier to workers raising issues and accessing redress. Civil society organizations active in worker rights report that both Lebanese and non-Lebanese workers feel unable to confront or challenge an employer who has (or is

perceived to have) more power and connections within Lebanon's formal and informal political systems. These organizations also report that workers have a general lack of faith in the impartiality of the judiciary and a lack of trust in public institutions. Vulnerable non-Lebanese workers face even further barriers. Refugees who lack valid residence can be arrested if they approach judicial or other authorities about workplace violations, while refugees under sponsorship who attempt to seek redress for violations by an employer-sponsor could face threats to withdraw the sponsorship (thus removing the refugee's residence status and leaving them vulnerable to arrest).

### **FOR DISCUSSION: WAYS FORWARD**

The **Government of Lebanon** should undertake necessary reforms and improvements to ensure that key labour protections are extended to all Lebanese and non-Lebanese workers in Lebanon. Areas for improvement include:

- Entire groups of workers should not be categorically excluded from the Labour Law protections based on place of birth, ethnicity, gender or other parts of their identity.
- The minimum wage needs to be increased in a systematic manner that ensures it is in proportion to the cost of living.
- The NSSF needs to be reformed so that it no longer discriminates on the basis of gender or national origin, and so that it provides adequate coverage to all workers and retirees.
- The restrictions and discriminatory regulations limiting PRL access to the labour market and social protection should be lifted.
- The sponsorship system for Syrian refugees should be cancelled, and refugees provided with a form of legal status that protects their basic rights and allows them to access work.
- The MOL inspectorate and other key inspection and enforcement bodies need to be properly resourced and the priorities of inspectors need to be clearly oriented towards ensuring employer compliance with the law. In particular, enforcement of the minimum wage and NSSF enrollment must be improved.

- Bodies charged with upholding workers' rights and resolving labour disputes, such as Arbitration Councils, need to be more accessible to workers and fully capacitated. Workers should be protected against the threat of arrest or retaliation when seeking redress for workplace violations.

The necessary changes to the legal and enforcement framework will take considerable advocacy, resources, political will, and time. **Donors and the international community** must support the Government of Lebanon to improve the legal framework and enforcement mechanisms around decent work. Simultaneously, donors and the international community should support interim measures by building robust worker protection incentives/disincentives and independent monitoring into job creation, economic development and infrastructure programs that are funded in whole or in part through grants or concessional financing.

**Civil society organizations** must advocate strongly and collectively towards the Government of Lebanon, international donors, and the private sector for reforms and measures that will help ensure worker protection. In addition, NGOs should take action within their own programs to help promote access to decent work:

- **Monitoring:** Civil society plays a critical watch dog role. NGOs engaged in human rights, refugee protection, gender justice, and/or access to decent work should seek to establish a more systematic way to share information, refer cases to one another, and undertake joint advocacy.
- **Awareness Raising:** NGOs should promote awareness of workers' rights, minimum workplace standards, and redress mechanisms among Lebanese and non-Lebanese workers and employers.
- **Promoting Documentation:** NGOs should promote the importance of written contracts and provide workers and employers with contract templates. NGOs should also seek out alternative forms of documentation that may be more acceptable to the employer and still enable workers to prove the existence of a contract.
- **Mediation:** NGOs can provide a mediation role between employers and workers, or can provide legal support to workers to undertake arbitration or mediation with the employer.

## 2 / RESEARCH FOR THIS PAPER

This paper has been produced under the umbrella of the LEADERS program in Lebanon. With the support of the EU MADAD Trust Fund and the Regional Development and Protection Program (RDPP) managed by the Danish Ministry of Foreign Affairs, the LEADERS consortium leverages the collective expertise and influencing reach of five partners (DRC, CARE, ACTED, Oxfam and Makhzoumi Foundation) to contribute to the economic self-reliance, resilience and social stability of displacement-affected populations.

This paper draws primarily from four pieces of work completed under the LEADERS program in 2017:

- ***“The Labour Sector in Lebanon: Legal Frameworks, Challenges and Opportunities,”*** a study produced for Oxfam by Nayla Geagea and Sara Wanssa in April 2017, which provides an overview and analysis of the legal texts and administrative decrees governing the labour sector in Lebanon.
- ***“Working Conditions in the Construction, Food Services and Agro-Industry Sectors in the Bekaa Valley,”*** a quantitative survey conducted by Oxfam in September 2017, and incorporating qualitative data collected by Oxfam and Lebanese Labour Watch through focus group discussions (FGDs) in April, May and August 2017. The survey collected data from 403 workers (89 women, 314 men) in the construction, food services and agro-industry sectors in Baalbek and Zahle districts. 48% of respondents were Lebanese and 52% of respondents were Syrian. Eight FGDs were conducted, two with Lebanese employers in Baalbek and Zahle, two with Syrian workers in Baalbek and Zahle, two with Lebanese workers Baalbek and Zahle, and two with

agricultural workers in Baalbek and Zahle. FGDs had mixed male and female participants.

- ***“Legal Instruments and Limited Enforcement of Decent Work Conditions and Minimum Standards at the Workplace in Lebanon,”*** an internal paper produced by Oxfam’s Lebanon Economic Justice Research and Policy Adviser, Omar Kabboul, in April 2017, which investigates the specific situation of non-Lebanese workers in the labour sector in Lebanon.
- ***Roundtable Discussion with Civil Society,*** conducted in Beirut on 5th July 2017 with LEADERS consortium members and key civil society partners active in workers’ rights, to discuss the findings of the legal analysis and potential ways forward.

This paper also draws from various secondary sources (notably studies conducted by ILO with the refugee populations in Lebanon), as well as four additional pieces of Oxfam research:

- Protection research that Oxfam published in May 2017, entitled ***“We’re Not There Yet...’ Voices of Refugees from Syria in Lebanon.”***
- Thematic protection monitoring conducted by Oxfam between June and September 2017 and culminating in a report ***“Syrian Refugees Talk about Sponsorship.”***
- ***“Poverty, Inequality and Social Protection in Lebanon,”*** a study conducted by Nupur Kukrety for Oxfam and the Issam Fares Institute of American University Beirut, published in January 2016.
- ***“Self-Protection And Coping Strategies of Refugees from Syria and Host Communities in Lebanon,”*** a study conducted by the Merits Partnership for Oxfam, published in July 2015.

### 3 / INTRODUCTION

**Decent work “is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.”<sup>1</sup>**

At the UN General Assembly in 2015, the four pillars of the Decent Work Agenda, namely employment creation, social protection, rights at work, and social dialogue, became part of the 2030 Agenda for Sustainable Development.<sup>2</sup> The Sustainable Development Goals highlight the importance of decent work in goal eight: Promote inclusive and sustainable economic growth, employment and decent work for all. The targets for this goal include focusing on high value-added and labour-intensive sectors, achieving equal pay for work of equal value, eradicating forced labour and the worst forms of child labour, protecting labour rights, and promoting safe and secure working environments, including for migrant workers and those in precarious employment.<sup>3</sup> The focus in Lebanon with respect to this goal has so far been on reducing unemployment.<sup>4</sup> This discussion paper looks beyond the critical need for job creation to explore other factors that are making it difficult for Lebanese and refugees to access and maintain decent work in Lebanon, even once they have found a job.

This paper will explore key gaps in the legal framework governing Lebanese and non-Lebanese workers in Lebanon (with a particular focus on refugees), as well as gaps and challenges with respect to the enforcement of decent working conditions and minimum workplace standards. This paper will also provide evidence on how these gaps are manifesting for Lebanese and Syrian workers in the Bekaa Valley (the area of Lebanon hosting the largest number of Syrian refugees). Lastly, this paper will present potential ways forward for Lebanese civil society and the international community to promote near-term improvements in the working conditions of Lebanese and refugee workers in Lebanon.

With a history of conflict and one of the highest rates of wealth inequality in the world, Lebanon already faced considerable development challenges prior to the impacts of the Syria crisis: gaps in public service delivery, unemployment, poverty, chronic governance issues, corruption, gender inequality, and a lack of social protection mechanisms. In the post-civil war period from 1990 to 2010, the Lebanese economy witnessed moderate growth, complicated by both internal political conflicts and external conflicts in and with neighboring countries. This same period also saw a doubling of the Lebanese labour force.<sup>5</sup> However, high GDP growth rates did not translate into nearly enough job creation to keep up with the number of Lebanese entering the labour market, and those jobs that were created were mainly low-skilled.<sup>6</sup>

<sup>1</sup> ILO website, “Decent Work” (Accessed 25 October 2017, <http://www.ilo.org/global/topics/decent-work/lang--en/index.htm>)

<sup>2</sup> Ibid.

<sup>3</sup> UN website, “Sustainable Development Goals: Goal 8” (Accessed 25 October 2017, <http://www.un.org/sustainabledevelopment/economic-growth/>)

<sup>4</sup> UNDP Lebanon (2017) “SDGs in Lebanon” (<http://www.lb.undp.org/content/lebanon/en/home/library/sdg/the-sustainable-development-goals-2017--lebanons-report-.html>)

<sup>5</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 8-12

<sup>6</sup> World Bank (2013) “Republic of Lebanon – Good Jobs Needed: The Role of Macro, Investment, Education, Labour and Social Protection Policies,” p. 2 (from 1997 to 2009 GDP grew at an average of 3.7% per year but employment grew at 1.1% per year between 1997 and 2009); “Low-skilled” refers to Level 1 occupations as set by ILO as those involving “simple and routine physical or manual tasks” (See: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_172572.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_172572.pdf))

The years directly prior to the Syria crisis saw continuing reliance on low-productivity sectors and a loss of jobs in agriculture and industry.<sup>7</sup> According to the World Bank, unemployment stood at 11% in 2012, with the rate for women twice as high as the rate for men, and the rate for youth at an extremely high 34%.

As a middle income country, poverty in Lebanon largely remained hidden prior to the Syria crisis and there is an absence of up-to-date official data on poverty or the labour force.<sup>8</sup> The most recent nationwide survey on living conditions and household expenditures was conducted in 2004-05, and it continues to be used as a basis for policy and program design despite that the intervening period has seen the 2006 war with Israel, the 2008 global economic crisis, the ongoing Syria crisis, and the Lebanese political leadership crisis from 2014-16. Based on the 2004-05 data, UNDP found that the poverty rate was 28%,<sup>9</sup> and according to the World Bank's systematic country diagnostic, poverty incidence remained constant for the past 25 years.<sup>10</sup> The economy's creation of primarily low-quality jobs is one of the key factors behind the persistence of poverty.

The scale of the Syria crisis and its resulting impacts on Lebanon have seriously affected the country's socio-economic situation and exacerbated pre-existing labour market challenges. Since the onset of the crisis in 2011, GDP growth has fallen from an average of 9% per year to less than 2% per year, and exports are estimated to have decreased by one-third with the loss of overland trade routes through Syria.<sup>11</sup> Tourism, real estate and banking have also suffered as both visitors and potential investors have been put off by the crisis next door.<sup>12</sup> In addition, Lebanon currently hosts the largest number of refugees per capita in the world: an estimated 1.5 million Syrian refugees and more than 30,000 Palestine refugees from Syria (PRS), alongside a pre-existing population of nearly 280,000 Palestine refugees in Lebanon (PRL).<sup>13</sup> While Syrian refugees are present in almost all Lebanese regions, they are concentrated in the poorest areas.<sup>14</sup> As a result of these combined impacts, it is estimated that 1 million Lebanese and the vast majority of refugees (71% of Syrian refugees, 89% of PRS and 65% of PRL) are currently living below the poverty line.<sup>15</sup>

<sup>7</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 70

<sup>8</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 8-12

<sup>9</sup> UNDP (2008), "Poverty, Growth and Income Distribution in Lebanon," p. 14

<sup>10</sup> World Bank (2015) "Lebanon - Promoting Poverty Reduction and Shared Prosperity: A Systematic Country Diagnostic," p. vi

<sup>11</sup> LCRP 2017-20, p. 102

<sup>12</sup> UNOCHA and REACH (2014), "Informing Host Community Target Programming in Lebanon," p. 3

<sup>13</sup> GOL/UN (2016). "Lebanon Crisis Response Plan (LCRP) 2017-20," p. 8. Note: according to the Syria Regional

Refugee Response Inter-Agency Information Sharing Portal (Accessed 25 May 2017, <https://data.unhcr.org/syrianrefugees/country.php?id=122>), 1,011,366 Syrian refugees were registered with UNHCR as of December 2016. The 1.5 million figure used in the LCRP reflects also the many Syrian refugees who are present in Lebanon but unregistered, due in large part to the suspension of UNHCR registration in May 2015.

<sup>14</sup> 67 percent of deprived Lebanese and 87 percent of all displaced persons from Syria live in 251 cadasters, many of which are in the same geographic areas that suffered from pre-crisis gaps in public services. Poor Lebanese households face a decrease in income and an increase in debts. See: GOL/UN (2014). LCRP 2015-16.

<sup>15</sup> LCRP 2017-20, p. 11-12

Definitive figures are not available for the current unemployment rate in Lebanon. In 2014, the Ministry of Labour (MOL) cited an unemployment rate of 22-23%.<sup>16</sup> In 2013, the World Bank predicted that the unemployment rate would double to above 20% by the end of 2014.<sup>17</sup> ILO, however, has argued that the World Bank overstated both the size of the refugee labour force and its relative size compared to the Lebanese labour force, and estimated an overall unemployment rate of around 12% for 2014.<sup>18</sup> Unemployment among PRL has risen from an estimated 8% before the crisis to 23% in 2015.<sup>19</sup> ILO estimated that the unemployment rate for Syrian refugees in Lebanon was 33% in 2013-14.<sup>20</sup>

A significant share of the Lebanese labour market is structurally reliant on non-Lebanese workers. The PRL labour force was estimated at around 87,000 in 2011-12, with the largest share working in construction and commerce.<sup>21</sup> ILO estimates that the current total Syrian labour force in Lebanon (inclusive of all Syrian refugees) is around 384,000 potential workers, 153,600 of whom are estimated to be employed (noting that two-thirds of those

who are employed work less than 15 days per month).<sup>22</sup> This is compared to an estimated pre-crisis presence of between 200,000 and 600,000 Syrian workers in Lebanon (depending on the season and state of the economy), working mainly in agriculture and construction.<sup>23</sup> It is also estimated that Lebanon hosts more than 200,000 migrant domestic workers from Asia and Africa,<sup>24</sup> in addition to further Asian and African migrant workers in the construction and sanitation sectors for which no numbers are available.

With respect to decent work, the already challenging economic, political and demographic context is further complicated by the fact that the legal framework and regulations governing the work of Lebanese citizens and non-Lebanese workers in Lebanon are largely outdated and in some cases contradictory or incomplete, in addition to being poorly enforced.<sup>25</sup> Some regulations have the effect of enforcing structural gender and nationality-based discrimination. A great number of formal, informal, Lebanese, and non-Lebanese workers in Lebanon face poor working conditions and little social or legal protection.

<sup>16</sup> Women Economic Empowerment Portal, "The Minister of Labour: Lebanon's unemployment rate exceeds 23% amidst poor estimates and limited initiatives", (accessed November 30, 2017, <http://www.weeportal-lb.org/news/minister-labour-lebanon%E2%80%99s-unemployment-rate-exceeds-23-amidst-poor-estimates-and-limited>)

<sup>17</sup> World Bank (2013) "Lebanon's Economic and Social Assessment of the Syrian Crisis," p. 1; World Bank (2015) "Lebanon - Promoting Poverty Reduction and Shared Prosperity: A Systematic Country Diagnostic," p. 28

<sup>18</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 49

<sup>19</sup> LCRP 2017-20, Livelihoods Chapter, p. 103

<sup>20</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 46, 48-49

<sup>21</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 41; ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 72

<sup>22</sup> LCRP 2017-20, pg. 103

<sup>23</sup> Lebanon Humanitarian Country Team Joint Note (2016) "Access to Work for Refugees from Syria in Lebanon Policy Options for a Win-Win Solution," p. 2

<sup>24</sup> ILO (2016) "Intertwined: The Workers' Side," p. 11; KAFA (2010) "Servant, Daughter or Employee? A Pilot Study on the Attitudes of Lebanese Employers towards Migrant Domestic Workers," p. 6

<sup>25</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities." Diagnostic," p. vi

### **INFORMAL WORK: A KEY CONTEXTUAL CHALLENGE**

The Lebanese economy has a very high level of informality. The World Bank has estimated that the work informality ratio in Lebanon was 44% prior to the Syria crisis, and that it has increased by 10 percentage points as a result of the crisis.<sup>26</sup> The inadequate policy response to the crisis, in particular with respect to refugee access to work, has also encouraged rather than stemmed informality. As informality increases, wages and working conditions decline for both formal and informal workers (Lebanese and non-Lebanese).<sup>27</sup> ILO has estimated that as many as half of employed people in Lebanon may be working informally. Data from the Central Administration for Statistics (CAS) indicates that 92% of agricultural work and 81% of construction work is informal (sectors which have a high number of Syrian refugee workers).<sup>28</sup> In addition, with more than 82% of the poorest quintile of the Lebanese population estimated to be working informally,<sup>29</sup> informality is a key driver of poverty and inequality in Lebanon.

In the course of researching this discussion paper, Oxfam has found varying definitions of “informal workers” in Lebanon. Depending on the source, “informal workers” may refer to those lacking a written contract, those working for unregistered businesses, those working without the proper legal paperwork, or those who have employment contracts but are not registered with the National

Social Security Fund (NSSF). For the purposes of this paper, we will use the following definition of informal employment:

- Workers employed in job types that are covered by the Lebanese Labour Law but who are not registered by their employer with the NSSF, and hence are not receiving the benefits and protections to which they are entitled by law;
- Workers employed in job types that are not covered by the Lebanese Labour Law and whose employers have not followed the respective alternative rules and regulations; and
- Agricultural workers (as workers in this sector are almost entirely unregulated and informal).

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<sup>26</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 35

<sup>26</sup> Lebanon Humanitarian Country Team Joint Note (February 2016), “Access to Work for Refugees from Syria in Lebanon Policy Options for a Win-Win Solution,” p. 2

<sup>26</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 34-35; ILO and CEP (2012), “Palestinian Employment in Lebanon”, p. 68

<sup>26</sup> Fakhry, R. (2016) “Informality in Lebanon: Diagnosis and Analysis,” Arab Watch on Economic and Social Rights, p. 151

### **KEY INTERNATIONAL CONVENTIONS THAT LEBANON HAS SIGNED/RATIFIED**

- The **Universal Declaration of Human Rights** guarantees freedom from slavery and forced labour, the right to security in the event of unemployment, the right to equal pay for equal work, the right to form and join unions, the right to rest and leisure (including reasonable limitation of working hours), and the right to work in safe and fair conditions.
- The **Convention on the Rights of the Child** enshrines the right of the child to be protected from economic exploitation and from performing any work that is likely to be dangerous or interfere with the child's education or to be detrimental to the child's health or its physical, mental, spiritual or moral development.
- The **International Convention on the Elimination of All Forms of Discrimination Against Women** enshrines the right to work, equal hours of work and the right to maternity leave, as well as equal pay for equal work.
- Lebanon joined the ILO in 1948 and has ratified the conventions on **Elimination of Forced Labour and Compulsory Labour, Combating Discrimination in Employment and Occupation, and Minimum Age for Admission to Labour and Worst Forms of Child Labour**.

### **MINIMUM STANDARDS AT THE WORKPLACE AS PER LEBANESE LABOUR LAW**

The Lebanese Labour Law (1946) and its amendments stipulate the following workplace standards:

- The wage may not be lower than the **minimum wage** (675,000 LBP per month as of 2012).
- The **minimum age** for employment is 13 years, 15 years for industrial projects or strenuous or hazardous work, and 16 years for work that is inherently dangerous or that poses a threat to life, health or morals.
- The **maximum number of working hours per week** is 48 hours, which can be reduced in the case of exhausting or hazardous work and increased in some cases (such as restaurants and cafes) by decision of the GOL.
- The **minimum weekly rest period** is 36 hours. Workers should benefit from at least one hour of rest per day (if working hours are above six for men and five for women), and workers should have at least 9 consecutive hours of rest every 24 hours.
- **Right of workers to compensation for arbitrary dismissal** in indefinite employment contracts. Both employers and employees are subject to a written notice clause, and notice of dismissal is prohibited in the case of pregnant women (from the 5th month of pregnancy), women on maternity leave, and all employees on normal or sick leave.
- Right to **sick leave** in cases of illness and accident other than those that are work-related.
- Right to **maternity leave** of 10 weeks.
- Right to **annual leave** of 15 days for employees who have been employed at the institution for at least one year, and increasing according to years of service.
- **Minimum health and safety standards** ensuring "adequate" lighting, air conditioning, potable water, restrooms, dust and smoke removers, as well as necessary and preventative measures for fire safety.

## 4 / KEY GAPS IN THE LEGAL FRAMEWORK FOR VULNERABLE WORKERS

### A / CONTRACTS

The Lebanese Labour Law stipulates that an employment contract may be written or verbal, and for an employment contract to exist it only needs to meet the three basic requirements outlined in the Law of Obligations and Contracts from the General Civil Code of 1932: work, wage, and 'economic subordination.' Employment contracts – even verbal ones – cannot legally diminish the rights that a worker is entitled to under the law.<sup>30</sup>

There is no comprehensive national data on worker contracts. Oxfam's 2017 research on working conditions in the construction, food services and agro-industry sectors in the Bekaa Valley found that only **17% of respondents had written contracts, with 32% stating that they had verbal contracts and more than 50% stating that they had no contracts**. Respondents without contracts tended to be Syrians, have lower levels of education, and/or work in a small or micro enterprises. The more vulnerable status of refugee workers is evident in the findings: while 30% of Lebanese respondents have written contracts, only 4% of Syrian respondents do. Although Oxfam did not collect data on PRL, an ILO study in 2012 found that less than 20% of PRL workers had written contracts.<sup>31</sup>

Legally, the lack of a written contract does not necessarily mean that there is no contract; rather, there would be the need to prove the existence of a verbal contract in case of a dispute. The main ways to prove the existence of a verbal contract are by providing evidence of regular wage payments (e.g., by showing a wage paper, a monthly transfer to a bank account, etc.) and/or by bringing witnesses. However, in most cases wages are paid in cash and undocumented,<sup>32</sup> and in practice verbal contracts can be difficult to prove and thus provide little or no protection to workers.

In cases where workers reported having no contract, the types of agreements that they have with their employers vary, with around 30% of respondents stating that they had agreed on payment terms only and nearly 50% reporting very informal agreements such as "I asked for work and they needed someone." Seven percent reported that they had not agreed on any terms at all.

Contract type	Written	Verbal	None/Others
<b>Overall</b>	<b>16.8%</b>	<b>31.8%</b>	<b>51.4%</b>
Lebanese	30.4%	28.8%	40.8%
Syrian	4.3%	34.1%	61.6%
Men	15.4%	33.6%	51.0%
Women	21.6%	25.0%	53.4%

Figure 1: Types of employment contracts

<sup>30</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities"

<sup>31</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 85

<sup>32</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017.

Oxfam's research found that – in the three sectors covered – having a more formal contract makes a difference with respect to minimum workplace standards and working conditions, in particular with respect to social security benefits and wage levels. **All respondents with written contracts reported being registered with social security, as compared to roughly 40% of those with verbal contracts and less than 18% of those who reported no contract. Similarly, respondents with written or verbal contracts were much less likely to be paid less than the minimum wage.**

NSSF, wage, working hours per contract type	Written	Verbal	None/Others
Are registered with	100%	39.1%	17.6%
Are paid Less than minimum wages	25.4%	32.0%	80.5%
Work more than 10 hours	4.5%	34.3%	20.2%
Have a weekly day-off	91.0%	77.1%	66.7%

Figure 2: Selected working conditions and minimum standards per type of contract

## **B / MINIMUM WAGE & WORKING HOURS**

In 2012, the monthly minimum wage in Lebanon was set at LBP 675,000 (approximately US\$450).<sup>33</sup> As per the Lebanese Labour Law, the working week cannot exceed 48 hours over six days, and workers are entitled to breaks during the work day (1 hour break every 6 hours for men and every 5 hours for women).<sup>34</sup>

The minimum wage itself is inadequate. To-date, no objective mechanism has been used to set the minimum wage in a manner that makes it commensurate with the cost of living, and it is not updated regularly enough to keep up with increases in the cost of living.<sup>35</sup> The current Lebanese poverty line (which itself has not been updated in a decade to reflect increased cost of living) is \$3.84 per person per day,<sup>36</sup> equivalent to \$460 per month for a family of four. This means that the current minimum wage is not sufficient to keep a Lebanese family of four or more people out of poverty, even according to outdated poverty measures.

Official wage data is extremely limited and out-of-date; however, available information indicates that many workers do not even earn the minimum wage. CAS data from 2007 indicated that 50% of Lebanese workers earned less than 600,000 LBP per month, and ILO data from 2011 found that 50% of PRL workers earn less than 500,000 LBP per month (with 60% of PRL women earning less than 500,000 LBP).<sup>37</sup> In addition, ILO has estimated that

approximately half of all informal workers in Lebanon earn less than the minimum wage.<sup>38</sup> Oxfam's 2017 working conditions research in the construction, food services and agro-industry sectors found that **39% of Lebanese respondents and 75% of Syrian respondents were earning less than the minimum wage**. Focus group discussions conducted with Syrian agricultural workers in the Bekaa Valley found that they are in some cases being paid wages as low as US\$0.66 per hour.

Despite the legal working week of maximum 48 hours, over 18% of respondents in Oxfam's working conditions research reported working over 10 hours per day (equivalent to 60 hours per week for a 6 day working week), with nearly 5% reporting working 13-14 hours per day (equivalent to 78-84 hours per week).<sup>39</sup> Men are somewhat more likely to work longer hours than women in the three sectors covered by the research. Syrian workers are more likely to work longer hours than Lebanese, which is linked to the finding that the majority of construction workers (who are largely Syrian men) work more than 8 hours per day (43% work between 9 and 10 hours and 19% work more than 10 hours). During focus group discussions, Syrian agricultural workers reported working more than 75 hours per week in some cases. 2011 data from ILO found that 20% of PRL men and 12% of PRL women worked 65 hours per week or more (which would be equivalent to 10-11 hours per day).<sup>40</sup>

<sup>33</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 37

<sup>34</sup> Lebanese Centre for Human Rights (2013), "Syrian Workers in Lebanon: An assessment of their rights and reality," p. 11

<sup>35</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities."

<sup>36</sup> LCRP 2015-16, p. 13

<sup>37</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 93-94

<sup>38</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 8-12

<sup>39</sup> 73% of respondents reported having a weekly day off and 60% reported having breaks during the work day

<sup>40</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 87

## **WORKERS SYSTEMATICALLY EXCLUDED FROM LABOUR LAW PROTECTIONS**<sup>41</sup>

Article 7 of the Lebanese Labour Law excludes the following groups of workers (Lebanese and non-Lebanese) from its protections: **agricultural workers**, **domestic workers** employed in private houses, nuclear family members employed in **family-owned businesses**; and **casual or daily workers for municipal or government services**. According to Article 8 of Law no.18 (5/9/2008) of the Lebanese Labour Law. In addition to the four groups above, further groups of workers are also excluded from the protections of the Labour Law de facto or as a result of other regulations:

- **Workers in Special Economic Zones (SEZs)**: In 2008, the Lebanese Parliament passed a law establishing the Free Economic Zone for the city of Tripoli. The law also established the General Authority for the SEZ in Tripoli, which was given the right to consider and decide on applications for foreign workers in the zone. The law exempts employers in the SEZ from complying with the Labour Law or from registering their employees in the NSSF. The only requirement is to provide health benefits to their employees

and their dependents which would be similar or superior to those provided by the NSSF.<sup>42</sup>

- **Foreign Artists**: Women who “perform in places where spirits are sold in retail and where shows are performed with music” (i.e., nightclubs) are categorized as Foreign Artists and their work is governed by regulations from the Directorate of General Security without Ministry of Labour involvement.
- **Consultants/Freelancers**: Consultant contracts are excluded from the Labour Law because their contracts do not meet the “economic subordination” requirement to be considered as an employment contract. Freelancers are – individuals who are not employed and are not members of bar associations/orders.

Lebanese and non-Lebanese workers who are excluded from the Labour Law are still covered by Law of Obligations and Contracts under the General Civil Code of 1932, and can appeal to the courts for protection of their basic rights if they can show a written contract or prove existence of a verbal contract.

<sup>41</sup> Oxfam (2017), “The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities”; Briefing from Nayla Geagea, Legal Consultant, 26th August 2017. Note: Regular full- and part-time government employees are not covered by the Labour Law (which pertains to the private sector), but are covered under a separate law for government employees.

<sup>42</sup> According to decree number 10267 issued on August 1962 referring to specifying the conditions for foreign artists entering Lebanon and residing in it in accordance with the law issued on July 10th 1962 concerning regulating the entrance of foreigners into Lebanon, their residence in it and their departure from it.

## **C / SOCIAL PROTECTION FOR WORKERS**

The Social Security Law of 1963 established the National Social Security Fund (NSSF), under the mandate of the Ministry of Labour (MOL) and Council of Ministers. The NSSF currently includes three main branches: (1) sickness, maternity and work-related accidents coverage, (2) family and education allowances, and (3) end-of-service indemnity. The contribution to NSSF is 23.5% of the wage, with 21.5% from the employer and 2% from the employee. The fund has some key weaknesses with respect to the social protections it provides. For example, there is no unemployment insurance or benefits for the unemployed. In addition, the end-of-service indemnity is a one-off payment equal to one month's salary for each year worked (at the rate of the final salary); there is no further old-age pension and retirees cannot benefit from NSSF health coverage after receiving their end-of-service indemnity.<sup>43</sup> Despite the existence of various other public health insurance schemes, over 80% of Lebanon's elderly population lacks health coverage.<sup>44</sup>

Many workers are entirely excluded from participating in or benefiting from the NSSF, and are thus lacking the social protections it does provide. In general, Lebanese citizens who are permanent employees and trainees can benefit.<sup>45</sup> Seasonal workers initially could benefit from NSSF, but have had their entitlements suspended.<sup>46</sup> Self-employed workers, who make up an estimated 30% of the workforce,<sup>47</sup> are not covered by NSSF.<sup>48</sup> Cat-

egories of workers who are excluded from the Labour Law protections are also excluded from NSSF. Women workers can benefit, but the fund provides women less remuneration than men, even though they pay in the same amount.<sup>49</sup> Foreigners with work permits are required to pay in to the fund, but their right to benefit is based on the principle of "reciprocity" (namely, if their country of origin provides the same benefits to Lebanese workers). Prior to 2010, this had the effect of requiring Palestinian workers to pay into NSSF but excluding them from benefiting from it, because they do not have a State which can provide reciprocal treatment to Lebanese citizens.<sup>50</sup> Amendments to the Labour Law in 2010 gave PRL the right to access some NSSF benefits (but not all, despite paying in at the same rate as Lebanese).<sup>51</sup>

In addition to structural gaps that leave out critical benefits and large segments of the labour force, many eligible workers are not registered with NSSF. In order to reduce costs, many employers do not register their employees, many do not report the full salaries of those who are registered, and some even require employees to share the amount that the employer is supposed to pay. On the other side, some employees prefer not to be registered and pay their share of NSSF because they see the fund as corrupt and mismanaged, and lack confidence in receiving any eventual benefits.<sup>52</sup>

<sup>43</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities"

<sup>44</sup> ILO (2015), "Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis," p. 38

<sup>45</sup> Article 1 of the Enrolment and Registration System of the NSSF

<sup>46</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities"

<sup>47</sup> CAS Multiple Indicators Cluster Survey, 2009 (Labour Force Module)

<sup>48</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities."

<sup>49</sup> Oxfam (2016), "Poverty, Inequality and Social Protection in Lebanon," p. 20

<sup>50</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities."

<sup>51</sup> ILO and CEP (2012) "Palestinian employment in Lebanon", p.22-23

<sup>52</sup> Oxfam (2016), "Poverty, Inequality and Social Protection in Lebanon," p. 21-22; Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017.

Although there is no comprehensive national data, Oxfam's 2017 research with construction, food services and agro-industry workers found that **around half of Lebanese respondents are not registered with NSSF**, with no differences between men and women. This is supported by Oxfam's 2016 social protection research, which found that many poor Lebanese workers were not registered with NSSF even when they had worked for the same employer for more than 3-4 years.<sup>53</sup> As noted above, workers with written contracts were much more likely to be registered (100%) than workers with verbal contracts (40%) or those who reported no contract (18%). For respondents who are registered with NSSF, 51% stated that their full wage is not reported, meaning that they will ultimately receive less remuneration than that to which they should be entitled. The 2017 research also found that the larger the enterprise, the more likely it is that workers are registered with NSSF.

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<sup>53</sup> Oxfam (2016), "Poverty, Inequality and Social Protection in Lebanon," p. 21-22

## **D / GENDER DISCRIMINATION**

In 2000, a fundamental reform to the Labour Law was undertaken to prohibit “discrimination between workers on the basis of gender with regard to the type of work, pay, employment, promotion, vocational training, and clothing” (Article 26). Unfortunately, this has not been accompanied by mechanisms to reduce unfair practices against women, nor has it removed other aspects of the legal framework that are in themselves gender discriminatory. The Labour Law continues to prohibit the employment of women in a number of industries and businesses. In addition, the discriminatory legal structure that bars Lebanese women from passing Lebanese nationality to their children extends into MOL circulars, which provide more lenient provisions for the foreign husband and children of a Lebanese woman to legally access work than for the foreign wife of a Lebanese man to access work. With respect to NSSF, as indicated above, the fund offers women less remuneration, even though they pay in the same amount as men. Furthermore, while NSSF covers the non-employed wives of husbands who contribute, the non-employed husbands of wives who contribute are only covered if they are over 60 or disabled.<sup>54</sup> Lastly, the Labour Law does not have any provisions regarding protection against harassment in the workplace, including sexual harassment.<sup>55</sup>

Data from the CAS in 2007 – the most recent available – indicated an overall gender wage gap in Lebanon of around 6% in favor of men.<sup>56</sup> Oxfam’s 2017 working con-

ditions research found that **female respondents systematically earn less than their male counterparts in the agro-industry and food services sectors.**<sup>57</sup> In 2011, economic participation of women in Lebanon was 21% for Lebanese women and much lower, 15%, for PRL women; economic participation of Syrian women in Syria was 13%.<sup>58</sup> In 2013, ILO estimated that the economic activity rate for Syrian refugee women was 19%,<sup>59</sup> which may be indicative of the enhanced income earning role that Syrian refugee women have taken on in displacement.

Oxfam’s 2016 social protection research found that women in poor households often need to fulfill their gender-defined role of caretaker while at the same earning money to support the household income. Discussions in the course of the research highlighted that women are disadvantaged in the labour market because they have limited prior work experience, are perceived as not having the physical capacity for certain work, or have to find work that fits with their caring responsibilities at home. Home-based and other informal paid work leaves many women without health or maternity benefits. While half of the women working in the agro-industry and food services sectors in Oxfam’s 2017 research reported being registered in NSSF, none of the women interviewed for the 2016 study reported receiving NSSF benefits.<sup>60</sup> Focus group discussions with workers in the Bekaa Valley in 2017 indicated a preference for men in certain jobs, largely linked to perceived physical ability.

<sup>54</sup> Oxfam (2016), “Poverty, Inequality and Social Protection in Lebanon,” p. 20

<sup>55</sup> Oxfam (2017), “The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities.”

<sup>56</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 37

<sup>57</sup> Sample size does not allow to look at specific results for women in the construction sector.

<sup>58</sup> ILO and CEP (2012), “Palestinian Employment in Lebanon”, p. 48

<sup>59</sup> ILO (2014), “Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile 2013,” p. 23

<sup>60</sup> Oxfam (2016), “Poverty, Inequality and Social Protection in Lebanon,” p. 15-16

## 5 / CHALLENGES FOR NON-LEBANESE WORKERS AND DISCRIMINATION BASED ON NATIONAL ORIGIN

Lebanon hosts a high number of non-Lebanese workers, including a PRL labour force of approximately 87,000, a Syrian refugee labour force of around 384,000 (compared to an estimated 300,000 before the Syria crisis), and more than 200,000 migrant workers from Asia and Africa.<sup>61</sup> PRL work largely in construction (24%) and commerce (26%).<sup>62</sup> Syrians have traditionally worked in agriculture and construction. A high number of workers from South Asia, Southeast Asia and Africa are employed in Lebanon as domestic workers, construction workers, and sanitation workers. According to ILO, “almost all these workers are engaged in low-skilled jobs...and most lack access to minimum labour standards.”<sup>63</sup>

Technically speaking, to obtain a work permit, any foreign worker in Lebanon is “sponsored” by their employer, and it is the responsibility of the employer to apply for the work permission. However, the nature of this sponsorship, how the work permission is governed, and the control that the sponsor holds over the employee, differ significantly for different categories of workers. Complicating the protection of non-Lebanese workers is the fact that their status is governed and influenced by often parallel or contradictory regulations from different GOL institutions, primarily the Ministry of Labour (MOL) and the Directorate of General Security (GSO). Furthermore, the granting of work permissions for non-Lebanese can be highly political and inconsistent in practice.<sup>64</sup>

Even without a work permit or a valid residence permit, non-Lebanese workers and categories of employees exempted from Labour Law protections can be covered by the Law of Obligations and Contracts for their basic rights, if they can provide a written contract or prove the existence of a verbal contract. In practice, however, employers may subvert the ability of vulnerable foreign workers to access legal redress by, e.g. threatening to withdraw sponsorship, threatening to report an employee to the authorities for lack of residence permit, or even filing spurious criminal charges against the employee. In addition, foreigners who lack valid residence permits may be subject to arrest and detention when approaching authorities to seek redress or for any other reason.<sup>65</sup>

MOL regulations that limit labour market access and reserve certain professions for Lebanese citizens, as outlined in the text box below, entrench labour market discrimination by regulating Syrians and Palestinians to low-skilled and low-wage labour. In addition, the kafala system as it exists in Lebanon and much of the Middle East is rife with entrenched discriminatory concepts and practices with respect to race and national origin.<sup>66</sup>

<sup>61</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 41 and 44; ILO (2016) “Intertwined: The Workers’ Side,” p. 11; KAFA (2010) “Servant, Daughter or Employee? A Pilot Study on the Attitudes of Lebanese Employers towards Migrant Domestic Workers,” p. 6

<sup>62</sup> ILO and CEP (2012), “Palestinian Employment in Lebanon”, p. 72

<sup>63</sup> ILO (2015), “Towards Decent Work in Lebanon: Issues and Challenges in Light of the Syrian Refugee Crisis,” p. 39

<sup>64</sup> Briefing from Nayla Geagea, Legal Consultant, 26th August 2017.

<sup>65</sup> Briefing from Nayla Geagea, Legal Consultant, 26th August 2017.

<sup>66</sup> ILO (2016) “Intertwined: The Workers’ Side,” p. 11; KAFA (2010) “Servant, Daughter or Employee? A Pilot Study on the Attitudes of Lebanese Employers towards Migrant Domestic Workers,” p. 6

## **A / PALESTINIAN REFUGEES**

The regulatory framework for Palestinians' work in Lebanon dates back to 1964 when the MOL issued a decree that classified Palestine Refugees as foreigners and thus required them to obtain work permits. Upon obtaining work permits, Palestinians were required to pay into NSSF but they could not receive any benefits from it due to the confluence of their stateless status and the reciprocity requirement in the decree. The decree also prohibited Palestinians from working in certain professions, such as law and medicine. A subsequent decree in 1982 further restricted the professions in which Palestinians could work, in effect leaving only construction and agriculture open to them. More recent measures have somewhat eased these restrictions: in 1995 the restrictions on profession were lifted for Palestinians born in Lebanon to Lebanese women or married to a Lebanese citizen, and in 2005 the restrictions on most professions were removed for all Palestine refugees who were born in Lebanon and who are registered with the MOL. The most significant change came in 2010, when the Labour Law was amended to waive the work permit fees for PRL and to enable PRL to access some NSSF benefits (end-of-service indemnity and work-related injuries coverage).<sup>67</sup>

Despite these changes, Palestinians still do not have the right to work in more than 20 professions, including engineering, medicine, accounting, and law.<sup>68</sup> Palestinians are also required to pay in the same amount to NSSF as Lebanese citizens, but they are not eligible to receive any sickness, maternity, or family allowance benefits.

Furthermore, ILO data from 2011-12 indicated that no PRL were receiving NSSF benefits at that time, and civil society organizations who are active in labour rights reported to Oxfam in 2017 that PRL often do not receive NSSF benefits when they request them.<sup>69</sup>

ILO and CEP's 2012 study of PRL employment found that less than 2% had work permits. Of those who did not hold work permits, 40% reported that work permits were not required for their type of work and 40% reported that they were unable to meet the requirements to obtain one. In practice, it is extremely difficult for PRL to obtain work permits, not least because it requires a notarized written employment contract. In addition, the costs of obtaining a work permit (paying in to NSSF and renewing the permit yearly) tend to outweigh the benefits for PRL (who do not in practice receive NSSF benefits).<sup>70</sup>

The 2012 study also found that PRL who enter the labour force are largely willing to accept any job offered, regardless of conditions, which often include low wages and long hours, as well as a lack of health coverage or paid sick leave (only 5% of PRL workers have private health coverage from their employer and only one quarter receive paid sick leave).<sup>71</sup> Thus, despite improvements in the legal framework for PRL, they continue to suffer from discriminatory practices that make it more difficult to access work (especially formal work), decent working conditions, and social protection.<sup>72</sup>

<sup>67</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon" p.22

<sup>68</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 100

<sup>69</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon" p.82-83; FGD with CSOs active in labour rights

<sup>70</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 100

<sup>71</sup> ILO and CEP (2012), "Palestinian Employment in Lebanon", p. 63, 82-83

<sup>72</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017.

## **THE RESERVATION OF PROFESSIONS FOR LEBANESE WORKERS**

Since 1982 Ministry of Labour decrees and decisions have reserved a wide list of professions for Lebanese citizens. The most recent update was issued in February 2017 and restricted the following professions to Lebanese:<sup>73</sup> administrative, banking, insurance and educational activities of all kinds, in particular: the president, dean, manager, deputy manager, office director, treasurer, accountant, secretary, clerk; teaching; nursing; all jobs in pharmacies, pharmaceuticals, laboratories; aesthetician; blacksmith; stenographer, computer officer, archivist, commercial representative, marketing representative, warehouse; salesman; jeweler; tailor; sewer; electrical fitter; paint works; mechanics; maintenance; glass installation; chef oriental food; usher; guard; driver; waiter; barber; tiling; paper fitter; plasterer; aluminum, iron and wood and decoration; upholstery; e-business; surveyor; estimator; sea fishing; engineering of various specialties; teaching at primary, intermediate and secondary levels, with the exception of teaching foreign languages.

These decrees also serve to exempt certain individuals or groups from all or part of these restrictions. For example: the husband and children of a Lebanese woman (but not the wife of a Lebanese man); Palestine refugees from Lebanon (except for syndicated professions); Syrian workers in the agriculture, sanitation and construction sectors; the director or representative of a foreign company registered in Lebanon; a resident in Lebanon since birth; and a specialist or technical expert whose work cannot be done by a Lebanese (proven by a statement from the National Employment Office).

## **B / SYRIAN REFUGEES**

Three bilateral agreements between Lebanon and Syria provided special rights and privileges for Syrian residents and workers in Lebanon (although never fully implemented): the 1993 *Agreement for Economic and Social Cooperation and Coordination between Lebanon and Syria*, the 1993 *Agreement Regulating the Entry and Movement of Persons and Goods between Lebanon and Syria*, and the 1994 *Bilateral Agreement in the Field of Labour between the Government of the Syrian Arab Republic and the Government of the Lebanese Republic*.

Under these agreements, prior to 2015, Syrians could relatively easily enter Lebanon without a visa and receive 6-month residency permits at the border. Despite the large number of Syrian workers in-country prior to the crisis, only a very small number of Syrians had work permits. This requirement was generally overlooked and unenforced by Lebanese authorities, and in some cases special procedures were established. For example, as first step towards implementing the 1994 bilateral agreement, Syrian seasonal workers were issued “white cards,” which provided them permission to work without having to go through the regular work permit process. However, as the crisis worsened and the number of Syrian refugees increased, many aspects of the bilateral agreements were suspended.<sup>74</sup> The economic activity of Syrians in Lebanon is now de facto regulated by the framework governing Syrian residence in Lebanon and MOL decrees indicating the sectors in which Syrians are permitted to work (agriculture, construction, and sanitation).

<sup>73</sup> MoL decision #1/41 dated 28-01-2017

<sup>74</sup> Briefing from Nayla Geagea, Legal Consultant, 26th August 2017.

At the beginning of 2015, the GOL effectively closed Lebanese borders to Syrian refugees, and introduced new residency requirements for Syrians in Lebanon.<sup>75</sup> These regulations provide two main pathways for Syrians in Lebanon to obtain or renew residency: 1) applying on the basis of a valid UNHCR registration certificate; or 2) obtaining a pledge of responsibility (sponsorship) by a Lebanese citizen.<sup>76</sup> Although the total number of Syrian refugees in Lebanon is estimated to be 1.5 million, only just over 1 million currently hold valid UNHCR registration certificates.<sup>77</sup> In addition, until mid-2016, a 'pledge not to work' was required to obtain residency on the basis of UNHCR registration. This had the effect of pushing

registered refugees into sponsorship, and once residence is obtained via sponsorship the individual cannot "switch back" to obtain residence via their UNHCR certificate in the future. Lastly, in practice, even though the 'pledge not to work' no longer applies, many Syrian refugees who are suspected or known to be working continue to be denied when they try to apply for residence based on UNHCR registration. Sponsorship is therefore the only pathway to residence currently open to many Syrian refugees, and it is largely viewed as the only pathway for Syrian refugees who need to work.<sup>78</sup> However, finding a sponsor is not an easy or affordable task, and it is out of reach for many. At present, an estimated 80% of Syrian refugees lack valid residence.<sup>79</sup>

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<sup>75</sup> Since January 2015, Syrian nationals must enter Lebanon under one of several visa categories (with documentary proof), namely: tourism, work visit, property owner, tenant, student, shopping, travelling to another country/transiting through Lebanon, medical visits, appointment with a foreign embassy, or as a displaced person. To enter as a 'displaced person' Syrian nationals must meet one of the exceptional humanitarian criteria developed by the Ministry of Social Affairs (MoSA): unaccompanied and separated children (under 16 years of age) whose parents and legal guardians are confirmed to be displaced in Lebanon; persons with disabilities dependent on family and relatives confirmed to be displaced in Lebanon; persons in need of life-saving medical treatment not usually available in Syria, or not available in a timely manner; and transiting through Lebanon to a third country (with proof of onward travel). The number of humanitarian exception cases granted has been minimal. It should be noted that Syrian nationals can also enter Lebanon if a Lebanese national 'sponsors' them. See: Regulations and rules about the entry of Syrians to Lebanon and their residency, issued on 23 February 2015 by Directorate of the General Security ([http://www.general-security.gov.lb/news\\_det.aspx?d=194](http://www.general-security.gov.lb/news_det.aspx?d=194)).

<sup>76</sup> Pledge of responsibility announced on 23 February 2015 ([http://www.general-security.gov.lb/news\\_det.aspx?d=194](http://www.general-security.gov.lb/news_det.aspx?d=194)). Other pathways do exist for Syrians to obtain residence in Lebanon, but the requirements are difficult to meet and not consistently implemented. These pathways include: property ownership, individuals who have a Lebanese mother, husband of a Lebanese women (for at least one year), wife of a Lebanese man (must sign pledge not to work), foreign individuals born in Lebanon and continuing their education in Lebanon (parents must have legal residency), and special discretionary cases.

<sup>77</sup> Practically speaking, due to the suspension of UNHCR registration, it is only possible for Syrian refugees who arrived in Lebanon prior to 5 January 2015 and registered with UNHCR prior to May 2015 to hold valid UNHCR registration certificates.

<sup>78</sup> Oxfam (2017), "Still Looking For Safety: Voices Of Refugees From Syria On Solutions For The Present And Future," p. 11

<sup>79</sup> AlSharabati, Carole and Jihad Nammour (2016). Survey on Perceptions of Syrian Refugees in Lebanon: Between Resilience and Vulnerability. University of Saint Joseph (USJ), Political Science Institute. Presentation of Results, February 2017.

Syrian refugees in Lebanon must work in order to survive. However, **the impact of the residency regulations is such that Syrian refugees are subjected to workplace exploitation regardless if they are working without a residence permit or if they are working on a sponsorship residency.** For refugees who lack valid residence permits, lacking residence is a criminal offence for which refugees (in particular men) are regularly arrested and detained.<sup>80</sup> In addition to making refugees vulnerable to arrest when they move to find work, this also leaves them vulnerable to exploitation by employers because they can be reported to the authorities for any reason. Oxfam research into refugee self-protection and coping strategies in 2015 found that abuse from employers was widespread and “exacerbated by the fact that employers are well aware that most refugees have expired or no residency documents, and are therefore not in a position to seek the assistance of the authorities.”<sup>81</sup>

Sponsorship also carries risks of exploitation and abuse. Sponsorship of Syrian refugees can be submitted by a Lebanese individual employer, by a registered entity employer, or a family pledge of responsibility for one

Syrian family.<sup>82</sup> The pledge of responsibility is not linked to a work contract nor does it include any reference to working conditions or dispute resolution.<sup>83</sup> While sponsorship provides a way for Syrian refugees to obtain legal residence in Lebanon, it does not in itself provide any additional labour protections. Sponsors are responsible for the legal status, work permission, healthcare and accommodation of those they sponsor, thus enabling them to exert considerable control over refugees.<sup>84</sup> Sponsored refugees report being required to abide by certain exploitative conditions to maintain their sponsorship (and hence their residence), such as provision of free labour for the sponsor and payment of additional fees to the sponsor ranging from \$100 to \$1000.<sup>85</sup> Were a refugee to attempt to seek redress for rights violations by an employer sponsor, the sponsor could withdraw sponsorship, thus removing the refugee’s residence status in Lebanon and leaving them vulnerable to arrest. As an indication of the burden that sponsorship places on refugees, in Oxfam’s 2017 protection research, the number one precondition identified by both men and women Syrian refugees for leading safe and dignified lives in Lebanon was cancelling the sponsorship-based residency system.<sup>86</sup>

<sup>80</sup> The 1962 law regulating entry, stay and exit of foreigners in Lebanon incriminates irregular stay regardless of status.

<sup>81</sup> Merits Partnership/Oxfam (2015), “Self-Protection And Coping Strategies Of Refugees From Syria And Host Communities In Lebanon,” p. 13

<sup>82</sup> Human Rights Watch (2016) “I just wanted to be treated like a person,” p. 19

<sup>83</sup> Lebanon Humanitarian Country Team Joint Note (July 2016) “Access to Work for Refugees from Syria in Lebanon

Policy Options for a Win-Win Solution,” p. 5

<sup>84</sup> Human Rights Watch (2016) “I just wanted to be treated like a person,” p. 19

<sup>85</sup> Oxfam protection monitoring, June, July and August 2017; See also: Human Rights Watch (2016) “I just wanted to be treated like a person.”

<sup>86</sup> Oxfam (2017), “Still Looking For Safety: Voices Of Refugees From Syria On Solutions For The Present And Future,” p. 13

With only very few exceptions, Oxfam's 2017 working conditions research found that although just over half of the Syrian refugee respondents were registered with UNHCR, **all of the Syrian refugee respondents who have residence permits have them through sponsorship** (i.e., not via their UNHCR certificate). This finding lends further weight to protection monitoring observations that sponsorship is the de facto only pathway for many refugees – especially those who are working – to obtain residence. The research found that most sponsorship is provided by landlords and employers. Significantly, **Syrian refugee respondents with a sponsor were more likely to be paid less than minimum wage (79%) than Syrian refugee respondents who do not have a sponsor (49%), despite that the latter are working without valid residence permits**. The type of sponsor also plays a role: 93% of Syrian respondents whose sponsor is the landlord and/or referred by the landlord are likely to be paid less than minimum wage, as compared to 66% when the sponsor is the employer, referred by the Shawish, or family/friends. This may indicate that refugees who are appealing to their landlord for support in obtaining residence permits are amongst the most vulnerable Syrian refugee workers (and thus willing to work for the lowest wages). In addition, comparisons between Zahle (where there is a much higher percentage of Syrians with sponsorship) and Baalbek appear to indicate that the sponsorship system does indeed drive worker wages down.

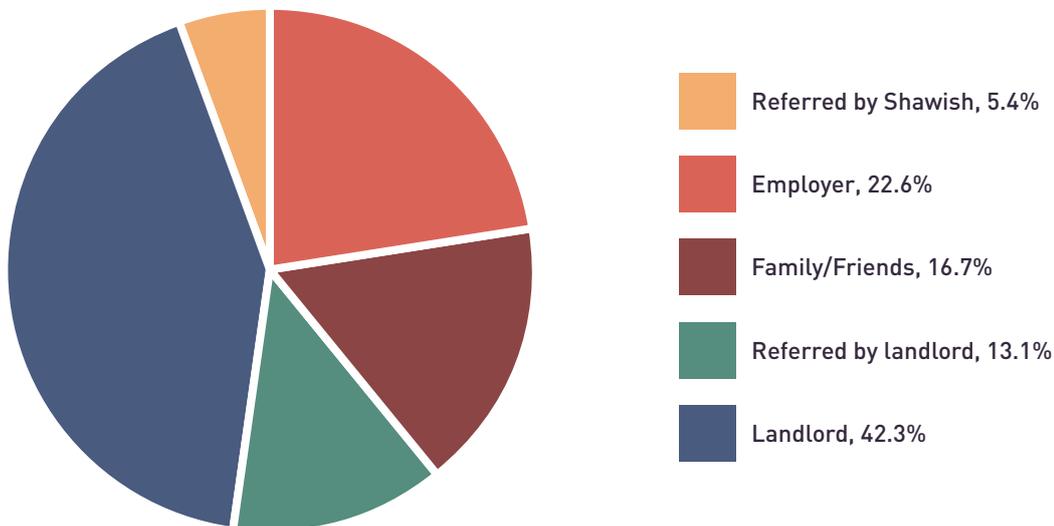


Figure 3: Syrian workers sponsors' profile

In 2016, ILO estimated that two-thirds of Syrian refugees in Lebanon who are employed worked less than 15 days per month, and 92% earn less than the survival minimum expenditure basket.<sup>87</sup> Oxfam's 2017 working conditions research found that only 4% of Syrian nationals have written contracts (compared to 30% of Lebanese) and 34% have verbal contracts. Over half of Syrian workers surveyed (61%) reported having no contract at all. This research also found that 75% of Syrian respondents were earning less than the minimum wage and **Syrian workers systematically earn less than Lebanese workers across the three economic sectors surveyed**. A striking difference was found in the food services sector where 64% of Syrian workers earn below the minimum wage compared to 26% of Lebanese. Syrian nationals tend to work longer hours than Lebanese, and are less likely to receive days off and paid leave.

Verbal contracts for agricultural work in the Bekaa Valley have been the norm since before the Syria crisis, with seasonal relationships and agreements between landowners and workers being maintained for years without necessarily being re-negotiated each season.<sup>88</sup> Focus group discussions with Syrian agricultural workers in the Bekaa Valley in August 2017 found that they are often working in precarious conditions, on verbal contracts, and with wages well below the minimum wage. Workers reported being organized by a Shawish who is responsible towards the landlord and may be an extended relative of

the workers. Male workers earn around 2000 LBP per hour, whereas female and child workers earn half of this. Participants reported that wages are often paid on a quarterly (rather than weekly or monthly) basis and often to the head-of-household (rather than to the workers themselves). In some cases, participants even reported being paid on a yearly basis. This is consistent with observations from protection actors on the ground, who have indicated that this system is used to control workers and ensure that they stay on for the full season (despite conditions, injuries or other hardships). Focus group participants reported working from 6:00 am until 2:00 or 3:00pm, with some women working second shifts for food processing. Workers report working 7 days per week from February to November. Sick and maternity leave are deducted from wages, and even in case of accidents, participants report that days off to recover are unpaid (even though in some cases the Shawish may cover medical costs).

Syrian workers have long worked informally in Lebanon, generally in poor conditions and with little or no protection. However, in the past Syrians were legally resident in Lebanon, and were also able to travel back to Syria if necessary. Now, nearly all Syrians in Lebanon are refugees whose primary reason for being in Lebanon is safety (even Syrians who were already in Lebanon have become refugees *sur place* as they are unable to return home). Returning to Syria to find work or escape exploitation is not a safe option.<sup>89</sup>

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<sup>87</sup> LCRP 2017-20, p. 103

<sup>88</sup> See for example: Joseph, S. E. (2002) "Forms of production and demographic regimes: an anthropological study of Bedouin agro-pastoral tribes in the Bekaa valley, Lebanon," Doctoral Dissertation, University of Georgia ([https://getd.libs.uga.edu/pdfs/joseph\\_suzanne\\_e\\_200208\\_phd.pdf](https://getd.libs.uga.edu/pdfs/joseph_suzanne_e_200208_phd.pdf))

<sup>89</sup> See: Oxfam (2017), "Still Looking For Safety: Voices Of Refugees From Syria On Solutions For The Present And Future."

## A PROFILE OF CONSTRUCTION WORKERS

	<b>Oxfam Working Conditions Research in the Bekaa Valley 2017</b> <i>Syrian &amp; Lebanese workers</i>	<b>ILO and CEP Survey of Palestinian Employment in Lebanon 2012</b> <i>Palestine Refugees from Lebanon (PRL)</i>
Gender	Male	Male
Age	16% under 24	28% under 24
Education level	Low	Low
Contract type	Unwritten (87%)	Unwritten (95%)
Monthly wage	Less than LBP 500,000 (46%)	Less than LBP 500,000 (54%)
Working hours	9 hours/day or more (61%)	44 hours per week (average)
Paid sick leave	None (84%)	None (95%)
Social security	None (96% Syrians / 47% Lebanese)	None (95%)
Employer	Micro-enterprise (56%)	Micro-enterprise (60%)

## NON-REFUGEE MIGRANT WORKERS

Despite hosting a very large population of migrant workers, Lebanon has not ratified important conventions which provide for equal treatment between national workers and migrants, address abusive conditions, and guarantee the children of migrant workers the right to education. Migrant domestic workers are also specifically excluded from the protections of the Lebanese Labour Law. Most migrant domestic, construction, and sanitation workers, are under a sponsorship system commonly known as the kafala system. Although Lebanese legislation does not include any regulation of this concept, the kafala system places workers under the control of the employer, with domestic workers (typically women) subject to considerably more control than construction and sanitation workers (typically men).<sup>90</sup> The kafala system has been described as leading to “slave-like conditions,” abuse and trafficking.<sup>91</sup> As per

a 2016 study conducted by ILO, domestic workers in Lebanon report violations such as their papers (e.g. passport) being held by the employer, long hours, insufficient time off, lack of private sleeping quarters, limited access to telephone communications, and sometimes being locked inside the employer’s home. Cases of verbal and physical abuse were also reported.<sup>92</sup>

The regulatory framework for workers classified as “foreign artists” is particularly harsh. Almost all “foreign artists” are women who work in bars and night-clubs. Their presence in Lebanon is governed entirely by GSO, without involvement of the MOL. The regulatory framework stigmatizes them, severely restricts their freedom of movement, denies them the right to self-defense and the right to lodge grievances, and leaves them extremely vulnerable to trafficking and abuse.<sup>93</sup>

<sup>90</sup> Oxfam (2017), “The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities.”

<sup>91</sup> See for example: KAFA (2012), “Policy Paper on Reforming the ‘Sponsorship System’ for Migrant Domestic Workers.”

<sup>92</sup> ILO (2016) “Intertwined: The Workers’ Side – A study of working and living conditions of migrant domestic workers in Lebanon,” p. 6-7

<sup>93</sup> Oxfam (2017), “The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities.”

## 6 / GAPS IN ENFORCEMENT AND IMPLEMENTATION

### A / ENFORCEMENT

The fact that a significant proportion of the working population in Lebanon does not have access to decent work is in large part due to weak enforcement of existing laws, rights, and regulations.

One reason for lack of enforcement is that some **key bodies and mechanisms that are provided for under the legal framework have either not been properly activated or not been properly capacitated to fulfil their role**. Under the Labour Law, the MOL's inspectorate is charged with ensuring compliance with legal provisions for working conditions and protection of employees, including working hours, wages, safety and health, and child labour. However, the inspectorate currently suffers from shortages of staff and resources, which impede its ability to fulfil its oversight role.<sup>94</sup> MOL representatives have reported – anecdotally – that there are very few inspectors to cover large amounts of territory in some areas, and that they have to cover travel costs at their own personal expense.

Similarly, the National Employment Office (NEO) currently plays little or no role. The NEO is responsible to conduct studies to formulate employment policies, improve the employability of the labour force through vocational training and capacity building, and find job opportunities for job seekers through the Employment Bureau. The NEO is also supposed to provide guidance on work permits for foreign workers. However, the NEO

has never been fully activated since its inception in 1980, as successive governments have failed to provide it with the necessary human and material resources. This has resulted in a lack of policies and measures to address unemployment and a lack of accountability for the MOL with respect to the issuance or non-issuance of work permits for foreigners.<sup>95</sup>

Political issues and power dynamics also affect the enforcement of labour protections. Civil society organizations who are active in promoting workers' rights highlight the need for inspectors to change their current practices and inspect all employers (big or small) and ensure that those violating the law are subjected to fines.<sup>96</sup> Lebanese workers who participated in focus group discussions during Oxfam's 2017 working conditions research claimed that workers' complaints are disregarded by inspectors; one participant noted, "NSSF inspectors often prepare their report as instructed by the employer." In addition, according to some reports, during inspection visits inspectors tend to focus on non-Lebanese workers' legal papers and making sure that their work permits match their job descriptions, rather than on enforcing employer obligations vis-à-vis working conditions and minimum standards.<sup>97</sup>

<sup>94</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities."

<sup>95</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017; Oxfam legal framework analysis

<sup>96</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017

<sup>97</sup> Oxfam (2017) "The legal instruments and limited enforcement of decent work conditions and minimum standards at the workplace in Lebanon" (internal paper), p. 13

## **B / ACCESS TO REDRESS**

There are various mechanisms through which workers are technically able to report employer violations of workplace protections and minimum standards.<sup>98</sup>

Lebanese workers can directly report cases to the MOL Directorate of Central Inspection, if they are arbitrarily dismissed or otherwise denied the rights to which they are entitled under the law. Similarly, workers can also inform NSSF if they were not registered in the fund, if a lower salary was registered than what they actually receive, or if they have been denied access to healthcare or asked to pay additional fares. Complaints can be filed at NSSF centers across Lebanon.

The Labour Law provides for the establishment of a Labour Arbitration Council in every governorate to deal with disputes related to NSSF, minimum wage, and workplace accidents. These councils are comprised of a judge, a representative of the workers, a representative of the employers, and a representative of the government and the MOL. As Arbitration Councils are only applicable in cases where there is an employment relationship, the worker must be able to present a written employment contract or prove the existence of a verbal employment contract.

Non-Lebanese workers who have valid residence and work permits can appeal to the MOL or to their own Embassy in the case of workplace violations. In the past, Arbitration Councils were only for individuals covered under the

Labour Law, but more recently Arbitration Councils have been forced to also accept some cases of migrant workers. Regardless the status of their residence or work permission, or their sector of work, foreign workers' basic rights are covered by both the Code of Obligations and Contracts and the Penal Code.<sup>99</sup> In addition, violations of rights that Lebanese and non-Lebanese workers have under international treaties and international human rights law can be part of litigation, lawsuits or appeals. There have been several initiatives that successfully advocated and safeguarded rights for economically and socially marginalized groups in Lebanon on this basis.<sup>100</sup>

Despite these mechanisms, there remain an array of challenges for most workers to access justice and redress for workplace violations. First and foremost, workers without a written contract need to be able to prove the existence of a verbal contract, which may be an insurmountable challenge without clear records of wage payments. In addition, Arbitration Councils suffer from implementation challenges similar to those of other enforcement mechanisms. According to civil society organizations active in labour rights, in some governorates the councils are either not formed or not activated, and where they have been established they are often not in locations that are easily accessible to workers.<sup>101</sup> Although the law gives the councils three months to decide on a case, studies have shown a much longer average duration, and it has taken up to 4 years to reach a verdict in some cases.<sup>102</sup>

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<sup>98</sup> See: Lebanese Labour Watch (2015) "Guide for Labour Contracts" (in Arabic); Oxfam (2017) "The legal instruments and limited enforcement of decent work conditions and minimum standards at the workplace in Lebanon" (internal paper), p. 13

<sup>99</sup> Briefing from Nayla Geagea, Legal Consultant, 26th August 2017.

<sup>100</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities."

<sup>101</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017

<sup>102</sup> Oxfam (2017), "The Labour Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities"

Power dynamics also play a role in the ability of workers to raise issues. Within the context of Lebanon's patronage system, civil society organizations active in labour rights report that workers – regardless if they are Lebanese or non-Lebanese – often feel unable to confront or challenge an employer who has (or is perceived to have) more power and connections. They also report a lack of faith in the impartiality of the judiciary and a lack of trust in public institutions in general.<sup>103</sup> During focus group discussions in the Bekaa Valley, workers reported that victims of abuse appeal to friends who have connections and influence in order to obtain support. The situation is more precarious for non-Lebanese workers. Refugees who lack valid residence can be arrested if they approach judicial or other authorities about workplace violations (or any other issues). In addition, there have been cases where employers have filed spurious criminal charges against migrant domestic workers who have filed complaints, resulting in the deportation of the workers regardless of their legal work status or the validity of the criminal charge.<sup>104</sup>

Over 95% of respondents in Oxfam's 2017 working conditions research denied any exposure to threats, violence, or degrading treatment in the past year. This may indicate decent conditions in the three sectors surveyed, or – more likely – indicates an unwillingness to report these issues. During focus group discussions, workers reported that employers operate with impunity and often act as if they

have an absolute authority over the workplace. Participants also expressed their fear of reporting instances against their superior. Previous research conducted by Oxfam in 2015 into Syrian refugee self-protection and coping strategies found that “abuse from their employers is widespread, ranging from verbal abuse (shouting, insulting, using ethnic slurs), to arbitrarily withholding pay, threatening to fire or not hire them anymore, and threatening to report them to the authorities.”<sup>105</sup>

**Limited enforcement, combined with high levels of informality, and the exclusion of entire groups of workers from the Labour Law serve to entrench a culture of workplace abuse and exploitation of the most vulnerable and disempowered workers.** Civil society organizations active in labour rights have expressed concern that one of the impacts of the high vulnerability of Syrian refugees in the labour market, on top of the already entrenched kafala system, is that employers are getting used to exploiting workers. They hire the workers they can pay the least, and they face few if any sanctions for mistreating workers.<sup>106</sup>

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<sup>103</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017

<sup>104</sup> Briefing from Nayla Geagea, Legal Consultant, 26th August 2017.

<sup>105</sup> Merits Partnership/Oxfam (2015), “Self-Protection And Coping Strategies Of Refugees From Syria And Host Communities In Lebanon,” p. 13

<sup>106</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017

## **C / AWARENESS**

In the course of their work, civil society organizations who work in labour rights have observed a lack of worker and employer awareness of worker rights, decent working conditions and minimum standards. They have also found that it helps when the employee knows his/her rights and uses this knowledge with their employer.<sup>107</sup> This is corroborated by Oxfam's 2017 working conditions research, which found that 86% of respondents were unaware of the legal appeal mechanisms available to them.

Oxfam's research also found that many workers are unaware of their rights, despite that many were also not working in conditions where basic workplace minimum standards were in place. For example, 71% of workers do not receive paid sick leave (including 57% of Lebanese workers), 42% of respondents declared that they are barred from taking breaks during work, and nearly one-quarter of workers reported that no toilet is available at their workplace. One striking finding was that although 97% of workers reported that they had never been forced to work in unsafe conditions, when asked about more specific conditions, 55% of construction workers reported that they suffer from polluted air at work and only 10% of these workers reported being provided with equipment to protect them from these conditions.

During Oxfam's 2017 working conditions research, 19% of workers in the construction sector in Baalbek reported that children under the age of 15 were employed at their place of work.

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<sup>107</sup> Oxfam Roundtable with Civil Society Organizations working on Labour Rights in Lebanon, 5 July 2017

## 7 / CONCLUSION AND WAYS FORWARD

### **CHANGES IN GOL POLICY & PRACTICE**

Reforms are needed in the legal framework in order to ensure that labour protections are extended to all Lebanese and non-Lebanese workers in Lebanon, regardless of their sector of work or type of contract:

- Entire groups of workers should not be categorically excluded from the Labour Law protections.
- The minimum wage needs to be increased in a systematic manner that ensures it is in proportion to the cost of living.
- The NSSF needs to be reformed so that it no longer discriminates on the basis of gender or national origin, and so that it provides adequate coverage to all workers and retirees. Unemployment protections and old-age, disability and death pensions should be adopted.
- The restrictions on professions, work permit requirements, and other discriminatory regulations limiting Palestine Refugees' access to the labour market and social protection should be lifted.
- The sponsorship system for Syrian refugees should be cancelled, and refugees provided with a form of legal status that grants their basic rights and allows them to access work.

Better enforcement of working conditions and minimum standards is also essential. Ensuring that all workers are receiving the minimum wage would help prevent a downward wage spiral for unskilled workers and help to reduce incentives for hiring employees informally. Better enforcement of NSSF enrolment will help to ensure that more employees receive the benefits they are entitled to, and may also help to increase citizen pressure for effective administration of the fund. Concrete steps must be taken to capacitate institutions who are tasked

with enforcement. The MOL inspectorate needs to be properly resourced (including human, technical and financial resources) to take on its role, and the priorities of inspectors need to be clearly oriented towards ensuring employer compliance with decent work provisions under the law (rather than ensuring worker compliance). Bodies charged with resolving labour disputes – such as Arbitration Councils – need to be more accessible to workers, fully empowered and capacitated, and expected to resolve disputes in reasonable timeframes. Workers should be protected against the threat of arrest or retaliation when seeking redress for workplace violations.

Greater formalization of the labour market in Lebanon must be a long term goal. However, given the high official and unofficial costs of formalizing a business in Lebanon, the gaps in the labour law itself, conflicting regulations governing the status of foreign workers, and the overall context of divided and weak governance, the necessary changes will take considerable advocacy, resources, political will, and time. There are no near-term comprehensive solutions. Interim measures are needed to protect workers now, and to ensure that the most vulnerable workers are not unnecessarily negatively impacted as legal and regulatory reforms come online.

### **RESPONSIBILITY OF DONORS/UN TO ENSURE DECENT WORK IN JOB CREATION PROGRAMS**

As per ILO, “economic development is not undertaken for its own sake but to improve the lives of human beings; international labour standards are there to ensure that it remains focused on improving human life and dignity.”<sup>108</sup> UN agencies, the World Bank, and other bilateral and multilateral donors must support the Government of Lebanon to improve the legal framework and enforcement mechanisms around decent work. Simultaneously, they should adopt measures that ensure decent work and protect against exploitation within job creation programs that are funded in whole or in part through grants or concessional financing. In particular, decent working conditions must be ensured within labour-intensive public works programs, temporary employment programs for Syrian refugees, and any agreements around special economic zones. Market-based and development-oriented approaches must not leave refugee or worker protection by the wayside: the design of job creation, economic development, and infrastructure programs must include real incentives/disincentives to ensure compliance with ILO’s eight fundamental rights conventions, and to ensure that employers meet minimum workplace standards and provide decent working conditions for Lebanese and non-Lebanese workers employed under these programs.

Robust worker protection mechanisms must be built in to the program design. Given the time, resources and political will that will be required to bring MOL inspection and enforcement capacity up to an acceptable level, it is essential to include independent monitoring by civil society of minimum workplace standards and working conditions as part of the design. The private sector will not monitor itself.

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<sup>108</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_318141.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_318141.pdf)

## **HOW NGOS CAN BETTER ADDRESS THESE ISSUES TOGETHER AND IN THEIR OWN PROGRAMS**

Civil society organizations must advocate strongly and collectively towards the Government of Lebanon, the private sector, the UN, World Bank, and other bilateral and multilateral donors for the abovementioned reforms, improvements and protection mechanisms. In addition, civil society organizations can take action within their own programs to help promote access to decent work:

**Monitoring:** Civil society organizations have a critical watch dog role to play in monitoring worker rights, working conditions and minimum workplace standards. Organizations engaged on human rights, refugee protection, and access to decent work should seek to establish a more systematic way to share information about workplace violations and exploitation, refer cases to one another, and undertake joint advocacy towards the GOL, donors and the private sector.

**Awareness Raising:** NGOs should promote awareness of workers' rights, minimum workplace standards, and redress mechanisms among Lebanese and non-Lebanese workers and employers. Workers who are without written contracts, without work permits or valid residence documents, or excluded from the Labour Law should be informed of the rights they still hold under Lebanese law and international conventions.

**Promoting Documentation:** NGOs should promote the importance of written contracts and provide workers and employers with contract templates. However, contracts scare some employers and workers can also end up being forced to sign contracts for lesser conditions and lesser wages (even though technically the law prohibits this and

thus should find in favor of the worker). Therefore, NGOs should also seek out alternative forms of documentation such as Memoranda of Understanding (MOUs) that may be more acceptable to the employer and still enable workers to prove the existence of a contract.

**Mediation:** NGOs can provide a mediation role between employers and workers, or can provide legal support to workers to undertake arbitration or mediation with the employer. Many employers prefer to avoid the Arbitration Councils, because if a complaint is filed, an inspector is likely to come to the workplace, and the employer could end up being liable for back payments to the NSSF. Thus, mediation to settle claims can be an effective alternative for which both the employer and the worker have an incentive to pursue. In the context of the Syria crisis response, mediation has already proven to be an effective tool for resolving disputes between landlords and refugee tenants.

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