

## Study Report

# Challenges facing refugees and migrants in exercising their civil liberties in Jordan







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# Fawasel for Civil Society Development

Fawasel for Civil Society Development is a Jordanian civil society organization (CSO) that aims to promote public participation and the rule of law, advocate for human rights, and build the capacity of youth and women so they can engage in decision-making and public policy processes. Fawasel also aims to promote economic opportunities for women and youth.

Fawasel has adopted the message that equal opportunities and justice must prevail in all social, economic and political aspects, and that development work must not be limited to the capital and major cities but should equally include villages, suburbs and less developed areas. Fawasel's team believes that these areas



are filled with young people and women with energy and talent who have not been afforded equal opportunities given the lack of outreach by the government or development-focused CSOs. Fawasel thus seeks to build a cohesive society, where individuals enjoy their rights and equal access to development opportunities and where a responsible government functions on the basis of the principles of transparency, community participation and the rule of law.



The universal dignity of all mankind affirms that all human beings should enjoy certain fundamental freedoms without interference from the State. These civic freedoms guarantee individuals' ability to participate in the civil and political life of their society without discrimination or repression. Civil rights include the freedoms of peaceful assembly and association, belief, expression and movement and the rights to life, a fair trial, privacy, access to information, liberty and security of person, and freedom from slavery. Civil rights also protect certain family rights, such as the right to marriage and the rights of children.

This study attempts to identify the legislative and procedural obstacles that limit the exercise of migrants and refugees' civic freedoms in Jordan, particularly the obstacles that prevent them from exercising their freedoms of association, peaceful assembly, public participation and access to information. This study examines such obstacles in migrant communities and both inside and outside refugee camps. The study also attempts to identify the challenges facing refugee and migrant women with respect to exercising their civic freedoms and to examine the impact of the COVID-19 pandemic on the civic freedoms of refugees and migrants.

This study sets forth international law standards for safeguarding the freedoms of peaceful assembly and association, and the rights to public participation and access to information for migrants and refugees. It also identifies and analyzes local legislation regulating these civic freedoms of refugees and migrants, highlighting legal gaps and

providing legislative and procedural recommendations to promote the civic freedoms of refugees and migrants.

This study can help migrants and refugees to learn about the rights guaranteed to them under international law and under Jordanian legislation. By outlining the contours of their civic freedoms as guaranteed by international law—and where such rights might be improperly restricted under Jordanian law—this study will assist migrants and refugees to safely exercise such rights. This study will serve as a guide for international and local organizations wishing to strengthen the civic freedoms of refugees and migrants in Jordan. The study may also aid official institutions in Jordan to identify legislative and procedural shortcomings with respect to the civic freedoms of refugees and migrants.

There are 761,850 refugees of various nationalities officially registered with the United Nations High Commissioner for Refugees (UNHCR) in Jordan<sup>1</sup>. Syrian refugees account for 88.7% of the total number of refugees registered with UNHCR, followed by Iraqi refugees (comprising 8.6% of the whole), then refugees from Yemen, Sudan, Somalia and other nationalities. Female refugees account for 49.4%, or 376,651 refugees out of the total population of registered refugees. However, the number of refugees in Jordan is likely higher than these numbers indicate because these figures only reflect those persons who officially hold refugee status from the UNHCR.

The records of the United Nations Relief and Works Agency for Palestine

1 Link: <https://bit.ly/3BGzo0p>

Refugees (UNRWA) indicate that there are approximately 2.4 million Palestinian refugees living in Jordan, 18% of whom reside in refugee camps. These refugees enjoy full Jordanian citizenship rights—except for 140,000 refugees originally from the Gaza Strip who hold temporary Jordanian passports.

In addition to refugees, there are also 117,746 migrant workers in Jordan. The Supreme Population Council has published a statement indicating that 30.6% of the population, or 2,918,125 residents in Jordan, are non-Jordanian nationals. 42.5% of these non-Jordanian nationals, 1,239,343 persons, are female refugees and migrants.



This study has adapted qualitative research methods using a participatory approach and legal analysis.

The report has been drafted by a Fawasel for Civil Society Development research team, with the following research methodology:

## 1. Desk Review



The research team:

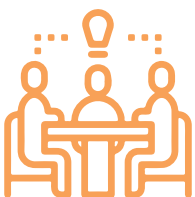
- a. Identified and analyzed international legislation, laws, international treaties and instruments on the civic freedoms of refugees and migrants.
- b. Identified and analyzed Jordanian legislation, laws, regulations and instructions regulating the civic freedoms of refugees and migrants.
- c. Identified gaps and shortcomings in the national policies on the civil rights of refugees and migrants and in international treaties and instruments.

## 2. Interviews



The research team carried out five interviews with experts on human rights with the aims of: verifying the findings of the desk review stage and analyzing legal texts; becoming familiar with the Jordanian government's practices and procedures relating to migrant and refugee civic freedoms; and providing recommendations.

## 3. Focus Groups



The research team carried out three focus group sessions with stakeholders about the challenges facing refugees and migrants that prevent their exercise of their civil rights:

- a. First focus group session: for stakeholders, including experts and governmental and official institutions, held on 19 July 2022.
- b. Second focus group session: for migrants held on 20 July 2022.
- c. Third focus group session: for refugees held on 25 July 2022.

# The conceptual framework for civic freedoms



The following are the key human rights terms and concepts used in the study:

1. **Refugees:** A refugee is someone who is in need of international protection because s/he is unable to return to their country of origin owing to a well-founded fear of persecution, conflict, violence or other circumstances that have disrupted public order.



The memorandum of understanding between the government of Jordan and the United Nations High Commissioner for Refugees defines a refugee as someone who:

- owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion outside the country of his nationality, is unable or unwilling to avail the protection of that country due to fear; or
- is a person who, not having a nationality and being outside the country of his former habitual residence as a result of such persecution, is unable or, owing to such fear, unwilling to return to it.

The United Nations (UN) defines a refugee as: someone who is outside the country of his nationality, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and is unable, owing to such fear, or unwilling to avail himself of the protection of that country.

2. **Migrants:** Although there is no uniform definition of a migrant, the UN defines a migrant as an individual who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate. However, common usage includes certain kinds of shorter-term migrants, such as seasonal farmworkers who travel for short periods to work planting or harvesting farm products.



The International Organization for Migration (IOM) has also defined a migrant as: an individual who moves or has moved across an international border or within a state away from his or her usual place of residence, irrespective of:

- Legal status
- Whether his or her migration was voluntary or involuntary
- The causes of such migration
- The duration of such migration.<sup>1</sup>

The Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live defines an alien as: any individual who is not a national of the state in which he or she is present.

1 Link: <https://www.un.org/en/fight-racism/vulnerable-groups/migrants>

3. **Civil Rights / Civic Freedoms:** Civil rights and civic freedoms are a class of rights that protect individuals' freedom from infringement by governments and which ensure one's ability to participate in the civil and political life of the society and state without discrimination or repression.



Civil rights include the right to protection of one's physical and mental integrity, life, and safety; and protection from discrimination on grounds such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Civil rights also include individual rights such as privacy and the freedom of thought, expression, religion, the press, assembly, association and movement, the right to equal protection of the law, and freedom from torture or cruel, inhuman or degrading treatment.



4. **Freedom of Peaceful Assembly:** The right to hold peaceful meetings, sit-ins, strikes, assemblies, events and non-violent protests, in public or private places or online.

5. **Freedom of Association:** The right of any citizen to join a formal or informal group to take collective action. This right includes the right to form a new group and join or lead an existing group. Conversely, freedom of association also includes the right not to be compelled to join an association.



6. **Right to Public Participation:** The right to participate in public affairs and in the formulation and implementation of policies at the international, national and local levels, in electoral and non-electoral contexts. For the purposes of this study, and as further detailed in the Public Participation section of this report, the right to public participation means participation within non-electoral contexts.

7. **Right to Access to Information:** The right of an individual living in a society to receive sufficient information from the administration or authority governing that society, about matters of concern to him or her, including the right to information held by public entities and bodies.



8. **National Security:** Measures taken to protect the existence of the nation or its territorial integrity or political independence against force or threat of force.



9. **Public Order:** The sum of the rules that ensure the functioning of society, or the set of fundamental principles on which society is founded, which also entails respect for human rights.

10. **Public Health:** Public health may be invoked as a ground for limiting certain rights in order to allow a State to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be narrowly tailored, grounded in law, and specifically aimed at preventing disease or injury or providing care for the sick and injured.



# International Instruments and Treaties

The table below shows the international treaties related to the study and Jordan's ratification status:

International Conventions	Certification
The International Covenant on Civil and Political Rights (ICCPR)	Yes
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Yes
The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Yes
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Yes (with reservations)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention)	No
Convention Relating to the Status of Refugees 1951 (Refugee Convention)	No
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	No

Because Jordan has not ratified several of the abovementioned treaties, it is not bound to uphold State obligations contained therein. Nonetheless, these treaties are discussed throughout the international law sections this report as evidence of widely-accepted international law standards and best practices.

This study also makes reference to a number of other international law sources, such as declarations<sup>1</sup>, general comments or general recommendations to the abovementioned treaties<sup>2</sup>, non-binding compacts<sup>3</sup>, UN-issued guidelines<sup>4</sup>, or human rights charters<sup>5</sup>. As these instruments are not treaties but rather soft law instruments, they do not require ratification.

1 E.g., the Universal Declaration of Human Rights; the UN Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in which They Live; the Open Government Declaration; the Progress Declaration of the International Migration Review Forum.

2 E.g., General Comments Nos. 37 ,34 ,25 ,18 ,15 to the ICCPR, General Recommendation No. 23 to CEDAW, General Recommendation No. (48) to ICERD.

3 E.g., the Global Compact on Safe, Orderly and Regular Migration.

4 E.g., the Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs.

5 E.g., the Arab Charter on Human Rights.

# The Principle of Non-Discrimination in International Law

The right to non-discrimination is a fundamental tenant of international human rights law, espoused in many key declarations and treaties. As a critical safeguard, the International Covenant on Civil and Political Rights (ICCPR) obligates States to non-discrimination through multiple provisions.

## Article 2(1):



*Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*



## Article 3:



*The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.*



## Article 26:



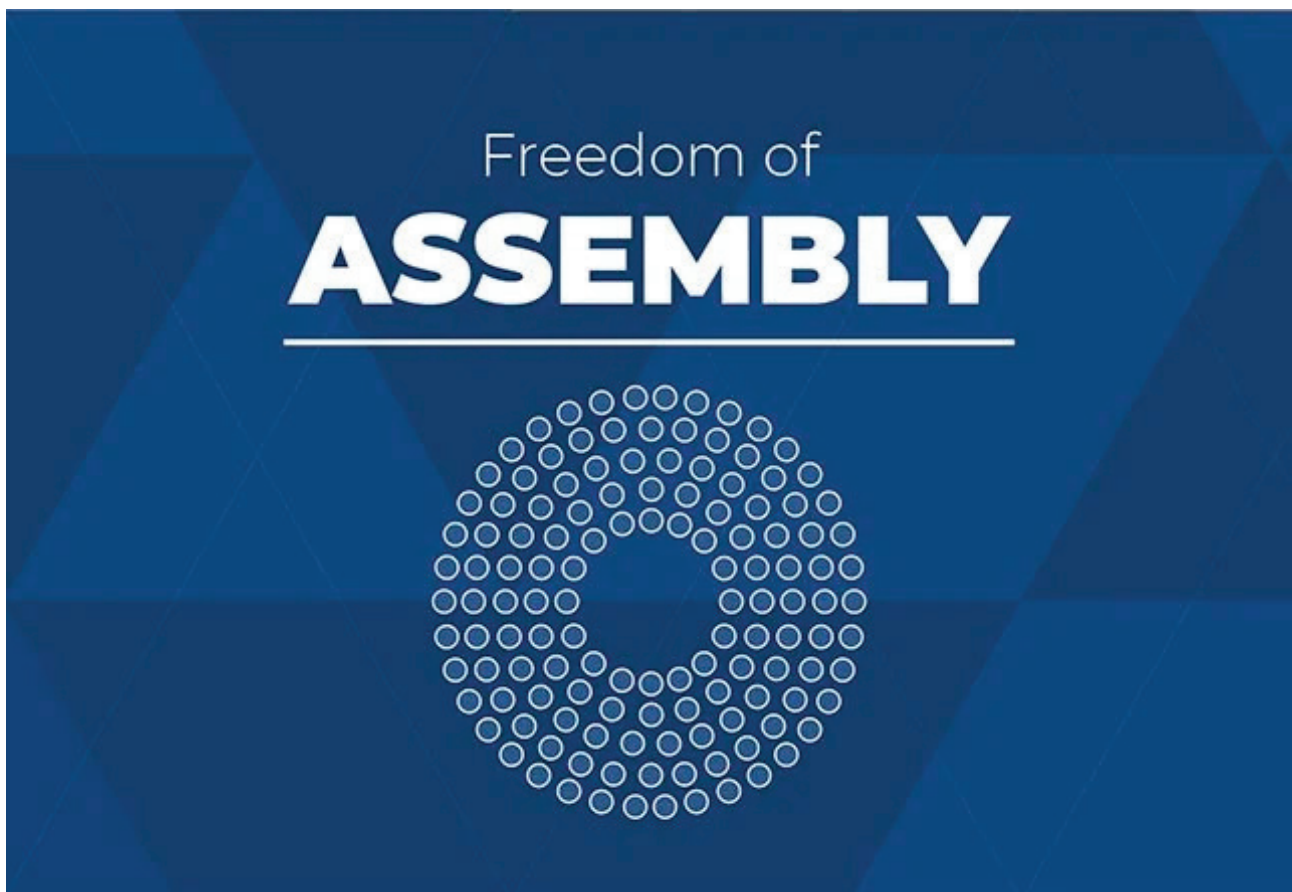
*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Article 2(1) clearly sets forth that a States must ensure the rights contained in the ICCPR for all individuals under its territorial or jurisdictional control—not merely for the State’s own citizens. Moreover, the State’s obligation to protect individuals from discrimination extends beyond simply those rights enumerated in the ICCPR. In further explaining the ICCPR’s non-discrimination guarantees in its General Comment No. 18, the Human Rights Committee clarified that Article 26 is not a mere repetition of Article 2(1) of the ICCPR, which prohibits discrimination only with respect to the rights enumerated in the ICCPR. Rather, Article 26 ensures that the State must guarantee equality, equal protection and non-discrimination throughout its entire body of laws. In the same General Comment, the Human Rights Committee interprets the concept of discrimination as any distinction, exclusion, restriction or preference based on any of the grounds enumerated in Article 2 that has the purpose or effect of nullifying or impairing the equal recognition, enjoyment or exercise of all rights and freedoms.

In effect, the various non-discrimination provisions in the ICCPR obligate States to ensure that key civic freedoms are guaranteed to all individuals that it has territorial or jurisdictional control over without distinction between citizens and non-citizens.



# Freedom of Peaceful Assembly for Refugees and Migrants





# International Law and Standards



Multiple international instruments and conventions have guaranteed the right to peaceful assembly. This right includes meetings, sit-ins, strikes, assemblies, events and protests, both online and in person.

The Universal Declaration of Human Rights (UDHR) stipulates this right in Article 20:



*Everyone has the right to freedom of peaceful assembly and association.*



The ICCPR affirmed the right to peaceful assembly in Article 21:



*The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*



The second sentence of Article 21 of the ICCPR confirms that, although the right of peaceful assembly can be restricted for certain enumerated purposes, such restrictions must be well-founded and extremely narrowly tailored.

In addition to Article 2(1) of the ICCPR, which confirms that rights set forth in the ICCPR apply to all individuals—not just citizens—present within a State Party's territory and subject to its jurisdiction, several General Comments to the ICCPR explicitly establish that the right to peaceful assembly applies to non-citizens. For example, General Comment No. 15 (The Position of Aliens under the Covenant) to the ICCPR confirms in paragraph 8 that:

“Aliens receive the benefit of the right of peaceful assembly and of freedom of association.” Paragraph 5 of General Comment No. 37 on the right to peaceful assembly (article 21) to the ICCPR states: “Everyone has the right to peaceful assembly: citizens and non-citizens alike. It can be exercised, for example, by foreign nationals, (regular and irregular) migrants, asylum-seekers, refugees and stateless persons.” Moreover, paragraph 8 of General Comment No. 37 specifies that: “The recognition of the right to peaceful assembly imposes on States parties a corresponding obligation to ensure that it is exercised without discrimination.”

Other international instruments that focus on the rights of non-citizens or racial minorities also clearly guarantee the right to peaceful assembly and likewise only permit restrictions in very narrow circumstance. For instance:

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) guarantees the right of assembly in Article 26:



- 1) *States Parties recognize the right of migrant workers and members of their families:*
  - a. *To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned . . .*
- 2) *No restrictions may be placed on the exercise of these rights other than those that are prescribed by law, and which are necessary in a democratic society in the interests of national security, public order or the protection of the rights and freedoms of others.*



Similarly, paragraph 22(i) of the Global Compact on Safe, Orderly and Regular Migration (GCM) commits States, in the context of safeguarding conditions that ensure decent work, to draw upon actions that “[p]rovide migrant workers engaged in remunerated and contractual labor with the same labour rights and protections extended to all workers in the respective sector, such as the rights . . . to freedom of peaceful assembly and association.”

The UN Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in which They Live affirms the right of non-citizens to peaceful assembly in Article 5(2):

Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those

set forth in this Declaration, aliens<sup>1</sup> shall enjoy the following rights: . . . (c) The right to peaceful assembly.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) guarantees the right to peaceful assembly in Article 5 (d):



*In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . (d) Other civil rights, in particular: . . . (ix) The right to freedom of peaceful assembly and association.*



Taken together, these instruments provide wide, multi-layered protection for non-citizens exercising their right to peaceful assembly.

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1 Article 1 of the UN Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in which They Live defines an alien as any individual who is not a national of the State in which he or she is present.



Jordanian protection for individual's assembly rights is significantly narrower than the broad protection guaranteed by international law. There is no explicit protection for non-citizens' rights to assembly, and the law allows Jordanian authorities to bar, dissuade or disburse protests that should be protected under international law.

## 1. Lack of Legal Protection for Non-Citizens

Article 16 (1) of the Jordanian Constitution states: "Jordanians shall have the right to hold meetings within the limits of the law." Thus, the Constitution does not protect the freedom of assembly for non-Jordanians. No other Jordanian legislation addresses the enjoyment of non-Jordanians to the freedom of peaceful assembly, neither guaranteeing nor prohibiting such right.

## 2. Restrictions on Freedom of Assembly

Jordanian law does guarantee the right to free assembly to Jordanian citizens, however this protection is limited.

### A. Advance Notification Requirement:

Article 4 of the Law No. 7 of 2004 on Public Gatherings states:



- A. Notification of the holding of the general meeting or the organization of the march [should be] submitted to the administrative governor at least forty-eight hours before the date appointed to carry out either of them.
- B. The notice must include the names and addresses of the organizers of the public meeting or rally, their signatures, the purpose of the meeting or the rally, and the place and time of any of the event.



Article 3 of the Law on Public Gatherings lists exemptions to the prior notification requirement: Jordanians may hold public meetings and organize rallies in accordance with the provisions set forth in Articles (4) and (5) of this Law. The following meetings shall be exempt from these provisions:



1. The general assembly of charities, volunteer-based societies, companies, chambers of commerce and industry, municipalities and clubs provided that these assemblies aim to realize the objectives of their respective bodies and are compliant with the laws governing their work and activity.
2. Meetings of professional associations provided that these meetings aim to realize the objectives of their respective associations and are compliant with the laws governing their work and activity.
3. Meetings of legally licensed political parties held at their headquarters within the conditions prescribed in the applicable Political Parties Law.
4. Symposiums and informational programs held by official media institutions.
5. Meetings on university campuses.
6. Meetings held to celebrate national and religious holidays organized by ministries and governorates provided that the Ministry of the Interior is informed of the meeting at least one week in advance.
7. Meetings held before/during elections.
8. The Minister may exempt any meeting of the provisions set forth in Articles (4) and (5) of this Law.



While prior notification requirements are not necessarily problematic under international law, neither Article 3 nor 4 provides an exemption for spontaneous demonstrations. Rather, Article 5 of the Law on Public Gatherings deems any assemblies organized in the absence of such prior notification to be unlawful, thus making spontaneous assemblies punishable under law.

In practice, Jordanian authorities rarely disburse assemblies for which prior notice is given or not needed. Therefore, migrant or refugee participants in such assemblies are unlikely to be disturbed.

#### **B. Vague Provisions**

Article 7 of the Law on Public Gatherings allows the administrative governor to “order the dismissal of an assembly or scattering of a demonstration the way he deems fit if the assembly’s or demonstration’s objectives change.” Article 8 of the Law on Public Gatherings provides civil and criminal liability for anyone who violates “public security and order” and/or causes damage to others or to public and private funds. This vague language provides authorities with undue discretion in their ability to disperse demonstrations and penalize participants.

#### **C. Time, Place, Manner Restrictions**

Articles 2(c) and (f) of the Instructions Regulating Public Assemblies and Demonstrations prohibit “slogans, cheers, cartoons, pictures or symbols that compromise state sovereignty, national unity or law and order” and the disruption of vehicular and pedestrian traffic, respectively. These provisions restrict expression during a protest and, where disruption to traffic is unavoidable, infringes on individuals’ right to assemble in public spaces.

#### **D. Harsh Penalties**

Article 10 of the Law on Public Gatherings stipulates that “whoever violates the provisions of the law will be subject to imprisonment of no less than a month and no more than three months, or a fine of no less than JOD 200 and no more than JOD 1000, or both penalties.” These penalties may have a chilling effect, discouraging persons from exercising their right to assembly.

### **3. Right to Strike**

The Jordanian Law on Labor allows Jordanian or non-Jordanian workers to go on strike from work, under the conditions defined by the law—namely notifying the employer at least 14 days before the date of the strike. This is stated in Article (135) of the Law on Labor, which states:

Notification of strike and lock out:



- a. *No worker shall go on strike without giving the employer notice thereof at least fourteen days before the date set for the strike. Where work is related to a public service, the notice period shall be double.*
- b. *No employer shall proceed to a lock-out without giving workers notice thereof at least fourteen days before the date set for the lock-out. Where work is related to a public service, the notice period shall be double.*



## Findings from Study Participants



### Findings from the Human Rights Expert Study Participants

The human rights experts interviewed for this report believe that legislation and official procedures often deprive refugees and migrants of their freedoms of peaceful assembly and expression. Restrictions on such freedoms have been justified by the local authorities in the name of protecting national security and public order; for example, these were the reasons given for these arrests of several non-Jordanian nationals in demonstrations and public sit-ins organized in the country in the past years.

Other experts believe that the legislative problem lies not in the State's deprivation of assembly rights, but in its failure to actively promote and protect these rights. The fact that the law only protects the peaceful assembly of Jordanians does not necessarily mean that non-Jordanian nationals are prohibited from enjoying this right. However, the problem is in law's silence on this point, which results in uncertainty as to whether migrants are allowed to participate in assemblies. This uncertainty may have a chilling effect on migrants' willingness to participate and could leave room for state authorities to crackdown on undesirable migrant protests. Moreover, if the right to free assembly is violated for a non-Jordanian, the law does not provide any basis for protection or recourse for a non-Jordanian.

With regard to actual practice on the ground, the experts reported that many meetings and strikes, including ones that take place in the Qualifying Industrial

Zones (QIZs) where many migrant work, are handled by the government and security agencies in the same way that they handle any other protests—with participants' freedom of assembly respected. However, other gatherings have led to severe consequences for refugee and migrant participants, some of whom were deported. The experts attribute this harsh response to the silence of Jordanian legislation on the assembly rights of non-Jordanian nationals.

### Findings from the Migrant Study Participants

The migrants interviewed for this study reported that the greatest challenge to the exercise of their right to peaceful assembly was an internal one: their fear of being returned to their country of origin. Migrants fear potential expulsion if they participate in any public gathering—and particularly if they participate in demonstrations and sit-ins in the QIZs, areas with a predominance of migrant workers who sometimes take part in strikes. When considering the risks faced by migrant workers who participate in strikes, some of the migrant study participants reported that participation in strikes does not pose a threat as long as these strikes are kept peaceful. However, other migrant study participants disagreed, pointing to the alleged dismissals and deportations of migrant workers as a result of their participation in strikes.

Migrant study participants were not aware of their right to participate in meetings related to trade unions or associations, demonstrating a lack of understanding of their legal rights.

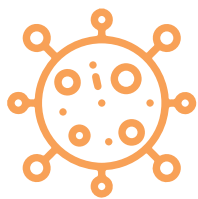
## Findings from the Refugee Study Participants

Refugees living outside refugee camps who were interviewed for this study reported a lower level of concern about deportation due to their participation in public meetings than the migrant study participants. However, these refugees were not aware of any form of gathering in which they were entitled to participate except family gatherings and gatherings of friends. These refugee study participants reported that they participated in national and religious gatherings of Jordan, just like any

Jordanian citizen would, but that they did not try to participate in other types of public meetings.

Refugees living inside refugee camps who were interviewed for this study reported that they were not aware of their legal rights to freedom of peaceful assembly. These study participants reported practicing activities that fall under the concept of peaceful assembly with international and relief organizations working in refugee camps. However, they also reported a disinterest in undertaking any other type of peaceful assembly because of their fear of deportation.

## The Impact of the COVID19- Pandemic on Freedom of Peaceful Assembly



On 21 March 2020, the Jordanian government imposed a lockdown in all regions of the Kingdom. The government gradually switched to a partial lockdown on 25 March 2020, with the official departments remaining closed until 31 May 2020. In light of the total, and then partial, lockdown, all forms of gatherings were banned until the issuance of Defense Order No. 16 on 17 September 2020, which then permitted gatherings with fewer than 20 participants. Gatherings exceeding 20 participants continued to be banned until the issuance of Defense Order No. 39 on 30 June 2021. Defense Order No. 39 permitted gatherings of up to 100 people in lounges and hotel facilities at 50% of their capacity and social gatherings at homes in outdoor settings of up to 50 people and in indoor settings of up to 30 people. On 1 September 2021 the ban was canceled and gatherings, festivals and events of up to 200 people were allowed, as well as wedding halls with a capacity of 50%.

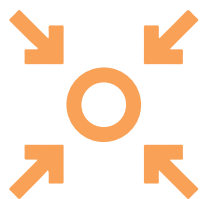
This lockdown disproportionately impacted refugees living in camps, who were unable to move inside or leave the camps. For instance, the residents of Zaatari refugee camp—the world's largest camp for Syrian refugees—were only allowed to leave their homes to buy food or other necessary supplies. All non-essential businesses and institutions were shut down. Before the pandemic there were 1,200 informal businesses in the camp; all of these were closed. The pandemic also suspended all of the permits that refugees had to leave the camp for work. This extreme lock-down affected refugees' economic and social life.<sup>1</sup>

Although Jordanian law does not provide explicit protection for the freedom of peaceful assembly of refugees and migrants, government measures responding to the COVID-19 pandemic restricted the freedom of assembly of all people in Jordan, including refugees and migrants, for over a year and a half.

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<sup>1</sup> [Link to Jordan Times.](#)

## Refugee and Migrant Women and Freedom of Peaceful Assembly



Refugee and migrant women face the same restrictions as any other refugee or migrant with respect to exercising their freedom of peaceful assembly. However, women often face additional challenges as well. Experts interviewed for this report believed that authorities were less likely to arrest women or commit violations against them than with men. However,

women who exercise their right to peaceful assembly are more likely to be insulted, slandered and humiliated—often online and through social media. Women may also be pressured through their family unit; authorities may call the female protestor's brother or father and pressure this male family member to silence their sister or daughter by preventing her participation in peaceful gatherings.

## Analysis



While reprisal for participation in a peaceful gathering is clearly a violation of an individual's right to free assembly under international law, it is unclear whether such reprisals against migrants and refugees would be considered a violation under domestic Jordanian law. **Jordanian law neither protects nor prohibits non-citizens from participating in assemblies.** Moreover, both migrant and refugee study participants reported a lack of awareness as to their assembly rights under law. This lack of awareness and the law's silence on non-citizens' assembly rights may contribute to migrant and refugee reluctance to attend gatherings. **This lack of clarity may also enable authorities act against non-citizens who do participate in assemblies.**

Indeed, the human rights experts and migrant study participants reported that, at times, migrants have faced dismissal or deportation as a reprisal for their participation in assembly. Both migrant and refugee participants demonstrated a concern about participation in assemblies

for fear of such reprisals. The lack of clear protection under law and actual reprisals in practice have contributed to a substantial chilling of migrant and refugees' willingness to exercise their assembly rights. Women migrants or refugees may face additional pressure online or through family members not to attend public protests.

With respect to Jordanian citizens, freedom of assembly is protected under domestic law within the limitations set forth in the section above. Despite this legal protection (which requires only prior notification to the administrative governor, not prior approval), **study participants reported that meetings and events are cancelled due to the lack of prior approval from the administrative governor.** This practice is in violation of the Law on Gatherings, certainly with respect to Jordanian demonstrators, and may evidence a general misunderstanding by Jordanian authorities as to their obligations and responsibilities under law.

# Freedom of Association for Refugees and Migrants







Alongside the right to peaceful assembly, international law guarantees to all individuals without discrimination the right to freedom of association. This freedom is construed widely, and includes the right to form, lead or become a member of associations, CSOs, clubs, cooperative societies, non-governmental organizations, religious associations, trade unions, institutions or internet groups, etc.

Foundationally, the UDHR protects this right in Article 20:



1. *Everyone has the right to freedom of peaceful assembly and association.*
2. *No one may be compelled to belong to an association.*



The ICCPR offers broad protection to free association, specifically affirming the right to join trade unions, in Article 22:



1. *Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.*
2. *No restrictions may be placed on the exercise of the right to peaceful assembly other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right. . . .*



Notably, paragraph 2 of Article 20 only permits restrictions on the freedom of association where necessary and narrowly tailored to achieve a particular enumerated end.

As with the right to peaceful assembly guaranteed in Article 21 of the ICCPR (and discussed above), Article 2 (1) of the ICCPR, and General Comment No. 15, paragraph 8 confirm that the right to freedom of association embedded in Article 20 of the ICCPR applies to all people, without distinction between citizens and aliens.

Other international instruments that focus on the rights of non-citizens or racial minorities also clearly guarantee the right to free association and likewise only permit restrictions in very narrow circumstance. For instance:

The GCM commits States to guarantee the right to free association, especially for migrant workers in the context of safeguarding conditions that ensure decent work (paragraph 22(i)); and for migrant women, in the context of empowering migrants and societies to realize full inclusion and social cohesion (paragraph 32(e)).

Article 8 of the UN Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in which They Live states:



1. *Aliens lawfully residing in the territory of a State shall also enjoy, in accordance with the national laws, the following rights, subject to their obligations under article 4: . . . (b) The right to join trade unions and other organizations or associations of their choice and to participate in their activities. No restrictions may be placed on the exercise of this right other than those prescribed by law, and which are necessary, in a democratic society, in the interests of national security or public order or for the protection of the rights*



Article 15 of the 1951 Convention Relating to the Status of Refugees (Refugee Convention) also explicitly protects refugees' freedom of association for non-political and non-profit associations and trade unions:



*As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country, in the same circumstances.*



Article 5(d) and (e) of the ICERD obligate States to guarantee and eliminate racial discrimination with respect to the freedom of association:



*In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . (d) Other civil rights, in particular: . . . (ix) The right to freedom of peaceful assembly and association. . . . (e) Economic, social and cultural rights, in particular: . . . (ii) The right to form and join trade unions.*



A number of international instruments specifically guarantee the right to freedom of association in a professional association or trade union context. For example: Article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) confirms States' obligation to ensure:



*The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the*

*promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others . . .*



Just as Article 2(1) of ICCPR does, Article 2(2) of the ICESCR guarantees that the rights set forth therein apply to all "without discrimination of any kind as to . . . national or social origin, . . . or other status."

Article 2 of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) stipulates that:



*Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorization.*



Article 26 of the Migrant Workers Convention also guarantees the right for all migrant workers to take part in meetings of, join, and seek aid from associations and trade unions:



1. *States Parties recognize the right of migrant workers and members of their families:*
  - a. *To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned.*
  - b. *To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned.*
  - c. *To seek the aid and assistance of any trade union and of any such association as aforesaid.*

2. *No restrictions may be placed on the exercise of these rights other than those that are prescribed by law, and which are necessary in a democratic society in the interests of national security, public order or the protection of the rights and freedoms of others.*



Article 40 of the Migrant Workers Convention extends this freedom for documented migrants to the right to form associations and trade unions. In line with Article 20(2) of the ICCPR and Article 8(1) of the ICESCR, both Article 26 and Article 40 of the Migrant Workers Convention only allow restrictions to free association in certain, narrowly-tailored circumstance for specifically-enumerated ends.

Some of these instruments appear to outline narrower constraints for freedom of association for certain types of non-citizens. For example, the Refugee Convention does not guarantee protection to refugee association with political groups and the Migrant Workers Convention does not grant undocumented migrants the right to form a trade union. However, the broad protection provided by other international conventions and declarations covers these gaps to ensure that all persons, including migrants and refugees, are entitled to form, lead, or be a member of all kinds of associations, including trade unions or rights-focused groups.



Similar to its stance on assembly rights, Jordan offers some protection for individual's association rights, but this protection is narrower than the broad ambit provided under international law. Freedom of association is not guaranteed for non-Jordanians and their formation, leadership or board membership of certain associations is prohibited by law. Non-Jordanians are directly prohibited from joining some professional associations or trade unions based on the particular law governing such association. Other professional associations or trade unions require that non-Jordanians fulfil certain conditions (such as duration of time in the professional practice) prior to joining. Jordanian law also distinguishes between types of non-Jordanian nationals with nationals of other Arab states generally receiving favorable treatment. Syrian refugees, however, are effectively barred from joining professional associations.

In addition to the restrictions around association for non-Jordanians, Jordanian law has erected significant barriers to the establishment, operations and funding of all CSOs. Such restrictions are likely to land disproportionately hard on non-citizens, who already struggle to freely exercise their right to association.

## 1. Lack of Legal Protection for and Discrimination against Non-Citizens

While the Jordanian constitution does not prohibit association rights for non-citizens, it only guarantees the right to form associations and trade unions for Jordanians. Article 16(2) of the

Constitution stipulates:



*Jordanians are entitled to establish societies, associations and political parties provided that the objects of such societies and parties are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution.*



Jordan's Law on Societies (Law No. 51 of 2008) does actively discriminate against non-Jordanian nationals' freedom of association through restrictions on their ability to establish CSOs. Article 8(a) of Jordanian Law No. 51 of 2008 on Societies stipulates that a founding member of any society<sup>1</sup> must be a Jordanian national. Law No. 51 of 2008 also requires that a society's Board of Directors be composed of Jordanian nationals. However, Article 11 of Law No. 51 of 2008 does allow non-Jordanian nationals to establish associations provided that they obtain the approval of the Council of Ministers to do so and at least one founding member of the association is a non-Jordanian national.

## 2. Discrimination Against Non-Citizens in Professional Associations and Trade Unions

With respect to trade unions, Article 98 of the Labor Law No. 8 of 1996 and its amendments requires that individuals founding trade unions and employers' unions be Jordanian nationals. This provision allows non-Jordanians to join trade unions and employers' unions provided that they are 18 or older. However, Article 45 of the Statutes of

<sup>1</sup> According to Law 51 of 2008, a society is a group of not less than seven individuals that provide services or conduct activities on a voluntary basis. Membership in a society is open to anyone that meets its membership criteria, which are specified within its articles of incorporation. Societies may benefit from income tax exemptions and charitable status.

the General Association and the Unified System of Trade Associations prevents non-nationals for running for any position within a trade association.

Each of the 13 trade unions in Jordan has its own governing law, and Jordanian legislation has restricted the right to establish trade unions to Jordanians only. Some unions allow non-Jordanians to join them under specific conditions.

- **The Law on Regular Bar Associations** requires that any individual hoping to practice law and be registered in the lawyers' bar association syndicate must have been a Jordanian citizen, or previously a citizen of another Arab state and now a Jordanian citizen, for at least ten years; or be a citizen of another Arab state that reciprocally allows registration of Jordanian lawyers for at least 10 years.
- **The Dental Association Law** requires that a member of the association be a Jordanian national. However, the Dental Association Law allows non-Jordanian nationals to obtain professional license with the approval of the Minister in certain visiting, teaching or training circumstances.
- **The Medical Association Law** allows non-Jordanians who are nationals of Arab states to join the association, providing that the medical professional has a residential permit for Jordan and is a medical specialist needed by Jordan. The Medical Associations Law discriminates against non-Jordanian female doctors, who can only "be treated as a Jordanian doctor for the purpose of provisional

registration in the association for a period not exceeding five years from the date of registration." Non-Jordanian female doctors are not allowed to vote in the association.

- **The Pharmacists Association Law** allows non-Jordanians who are legal residents in Jordan to join the association.
- **The Engineers Association Law** allows non-Jordanians who are nationals of Arab states to join the association if they satisfy certain conditions (for example, conditions around the length of time they have been practicing and reciprocity of their home country's engineering association laws). Non-Jordanians who are nationals of non-Arab states can only practice in Jordan with the permission of the Minister. This permission would only be granted if certain conditions apply (for example, there is no Jordanian engineer with competence and expertise to carry out the work).
- **The Agricultural Engineers Associations Law** only permits non-Jordanian nationals from Arab states who are currently residing in Jordan to join the association.
- **The Journalists Association Law** requires that members in the Journalists Association be Jordanian nationals. While not members in the journalists' association, non-Jordanians journalists are permitted to practice the profession, provided that: the Minister's approval is obtained; Jordanian journalists are permitted to work in the foreign journalist's home country; the foreign journalist is licensed to practice in his or her home country; and the foreign

journalist is legally permitted to reside and work in Jordan for at least one year.

- **The Veterinary Association Law** allows non-Jordanians who are citizens of other Arab states to join the association where certain conditions have been fulfilled (for example, the veterinarian has practiced for at least five years and is currently residing in Jordan). Non-Jordanians who are not citizens of other Arab states can join the association if they meet the same conditions and are expressly permitted by the Minister to join.
- **The Nurses and Midwives Association Law** allows non-Jordanians to register with the association if they are Jordanian residents and the Ministry does not object to their practice.
- **The Geologists Association Law** permits non-Jordanians to be registered with the approval of the Council of Ministers where certain conditions (for example, the laws of his or her home country extend a similar treatment to Jordanian geologists) have been fulfilled.
- **The Construction Contractors Association Law**, the Education Association Law and the Artist Association Law bar non-Jordanians from membership in their respective associations.

In addition to the individual associations' restrictions as discussed above, the laws of all professional associations require non-Jordanian applicants to have residential permits. Because residential permits are different status

than that of refugee residential permits, all refugees are effectively barred from joining professional associations as they lack the necessary prerequisite permit. Moreover, in 2020, the Ministry of Labor issued particular instructions for the employment of Syrian refugees which restrict the professions in which Syrian refugees may work. The professions left available to Syrian refugees are not those with professional associations. Effectively, these instructions add another barrier preventing Syrian refugees from joining any professional associations in Jordan.

### 3. Barriers to CSO Formation, Operation and Funding<sup>2</sup>

Law No. 51 of 2008 requires mandatory registration of societies. Under the Penal Code (Law 16 of 1960 and its amendments) individuals who conduct activities for unregistered groups are subject to a penalty of up to two years' imprisonment. Given the various deadlines for the registrar (Association Registry Office) to complete an applicant's registration, in practice, a society applicant may have to wait 90 to 97 days from the date of submitting his application before receiving proof of registered legal status. The Association Registry Office has the right to reject any application without stating a justification.

The law prohibits the registration of any society with illegal objectives or objectives that contradict public order in Jordan. CSOs are also prohibited from having any political goals or practicing activities of political parties. Registration of masonic societies is also prohibited.

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2 Link: <https://www.icnl.org/resources/civic-freedom-monitor/jordan>

Societies are also subject to a series of onerous notification and reporting requirements and government authorities are given wide latitude to interfere with a society's operations. As just one example, societies are obliged to inform the registry and relevant minister of the date of their general assembly meetings two weeks prior. Both the minister and the registry may appoint delegates to represent them at such meeting and the approval of the Association Registry Office is needed for any resolutions by the society to amend its bylaws.

Jordanian law also contains significant restrictions on how CSOs can accept support or funding, especially from foreign entities. The significant due diligence, reporting, and compliance burden on CSOs is coupled with strenuous penalties for failing to comply, including high fines and lengthy imprisonment.

Funding for projects related to Syrian refugees face even greater hurdles. The government has created the special "Juris" system for these projects under the Ministry of Planning and International Cooperation, through which applications for approval of foreign funding are submitted by non-profit associations or companies. After applications have been submitted, the Ministry of Planning communicates with all relevant authorities to obtain their preliminary approval for the project, and then the Council of Ministers must also give its approval. This process takes significant time and complex paperwork, placing hurdles even above and beyond the already onerous approvals required for foreign funding for projects that do not pertain to refugees.

## Findings from Study Participants



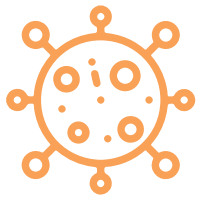
The experts interviewed for this report believe that the reason that trade unions often refuse to allow non-Jordanian members is due to their fear that doing so might reduce opportunities for Jordanians in a time of high unemployment. Moreover, some members of trade unions disfavor non-citizen membership for xenophobic or political reasons, fearing that such membership may add to migrants' decision to settle long-term in Jordan.

Refugees interviewed for this report were not aware that they had any rights to establish or join associations. Rather, they centered their association rights on participation in activities conducted

by international associations and organizations that implement projects targeting refugees, especially refugees of Syrian nationality.

Regarding their right to join trade associations, most of the migrant workers interviewed for this report only understood that a certain amount was deducted from their salaries each month as a membership fee. None of these migrants reported having benefited in any way or knew about the objectives or activities of the relevant association. Although technically dues-paying members of trade associations, migrants are often left in the dark as to the benefits to which they are entitled.

## The Impact of the COVID19- Pandemic on Freedom of Association



From 21 March to 31 May 2020, the government imposed COVID 19-related measures which included closing official departments and a lockdown. The disruption to many governments' departments—including the Associations Department responsible for registering associations—delayed the submission of applications to establish new associations and the completion of applications that had been submitted before the pandemic. Despite the disruption in the work of the Associations Council, it continued to provide electronic services for the registration of associations and follow-up on administrative matters between associations and the Associations Council during the pandemic. However, many associations could not complete their application for registration which required the presence of at least one representative to submit and sign the application in person. This in-person requirement effectively prevented the registration of associations during the COVID-19 lockdown. So, during this period, the registration of associations was suspended.

The lockdown imposed by the government also impacted associations' ability to conduct activities. The Associations Department issued a circular to all associations that postponed the meetings of their general and administrative bodies and their elections until the end of the government-imposed COVID-19 lockdown; no association

was held accountable for not holding meetings during the usual legal period in which such meetings should be held. All meetings were forced to become remote, accessible through video and audio communication applications. These virtual meetings made it difficult for many who lacked good internet services—especially in remote areas—to participate. Associations were unable to carry out their activities in person due to the lockdown. This limitation negatively affected many associations. Some associations were not allowed to carry out their activities electronically due to the restrictions from donors or other CSOs. Other associations were unable to carry out their activities remotely due to the weak internet connection in some areas or the lack of stakeholder access to the internet. This inability to carry out its activities and reach all stakeholders affected the economic situation of many associations.

In general, refugees and migrants face the same challenges as Jordanians with regard to the right to associations, such as the inability to hold meetings, difficulty accessing funding, etc. However, as refugees often have a greater reliance on the services provided by associations, whether such services be health, psychological, protection and even social-related, the shutdown of associations was disproportionately difficult for refugees, especially children and women. Without access to associations, considered a safe space, many refugees were particularly isolated.

## Refugee and Migrant Women and Freedom of Association



Refugee and migrant women face the same obstacles as migrant men and refugees in terms of freedom of association. However, some trade associations laws give special treatment to non-Jordanian women married to Jordanians by allowing them to join the association as a Jordanian national even before acquiring Jordanian citizenship.

Experts interviewed for this report

believe that there are no discrimination or challenges facing women in particular in establishing and joining associations other than those facing all refugees and migrants. However, there are challenges facing women-led associations in general regardless of nationality, including challenges related to access to foreign funding, challenges related to the English language and project writing skills and other challenges that make women-led associations less able to develop and grow.

## Analysis



Although the Jordanian constitution does not guarantee protection of the right to free association by non-citizens, including migrants and refugees, Jordanian legislation allows them to join (non-professional) associations freely. However, Law No. 51 of 2008 limits the right of non-Jordanians to establish associations by requiring approval from the Council of Ministers. This is in contravention of the wider protection demanded by international law, which would only allow restrictions that are strictly necessary to maintain national security, public safety, public order, or protect public health, morals or the rights of others. In practice, fortunately, the majority of applications for the establishment of associations from non-Jordanians are approved by the Council of Ministers, so this restriction does not fall as heavily on non-Jordanians as it could.

Associations have been established in Jordan by people from 26 nationalities,

15 of which are Arab state nationalities. Of these, more Iraqis have established associations than other non-Jordanians; Syrians have also registered numerous associations. Most of these associations are friendship associations or communities. As of December 2022, registered associations of non-Jordanians account for 0.035%, or about 235 out of 6,683 registered associations.<sup>1</sup>

With regard to the right of refugees and migrants to join professional associations and trade unions, Labor Law No. 8 of 1996 allows non-Jordanians to join such associations, but not found them. As discussed above, after the 2020 instructions issued by the Ministry of Labor, Syrian refugees are effectively barred from joining trade unions or professional associations. Other migrants and refugees are permitted by law to join certain professional associations, provided they comply with the specified conditions—which often include obtaining

<sup>1</sup> Association Council is updating its database during the period of this study, so final numbers may change.

specific consent from the relevant authority to do so.

However, in practice many non-Jordanians and children of Jordanian women with non-Jordanian fathers are not accepted as members of professional associations even after they have fulfilled the conditions to do so stipulated by law. The only professional association that regularly accepts most non-Jordanian nationals is the Medical Association because non-citizen doctors have certain expertise and specialties that are needed in Jordan.

Thus, the combination of trade unions/ professional association legislation and practice limiting non-Jordanian membership and migrants and refugees' own lack of awareness as to the opportunities that do exist for them to join any such associations has created a situation where migrants and refugees are often barred from participation (much less establishment or leadership) in trade unions or professional associations. These barriers may be heightened for Syrian or female migrants and refugees.



# Right to Public Participation for Refugees and Migrants







As emphasized by the Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs (the Guidelines), issued by the Office of the UN High Commissioner for Human Rights, the right to public participation is a critical human right:



## Paragraph 1

*Participation enables the advancement of all human rights. It plays a crucial role in the promotion of democracy, the rule of law, social inclusion and economic development. It is essential for reducing inequalities and social conflict. It is also important for empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalization and discrimination.*



International law guarantees this important right in several foundational declarations and conventions, such as the Article 21 of the UDHR and the Article 25 of the ICCPR. However, in contrast with other rights and freedoms recognized by these foundational instruments, the right to public participation in an electoral context is limited to citizens. Nonetheless, there is some indication that in a non-electoral context, the right to take part in the conduct of public affairs applies to non-citizens as well.

First, it is clear that the right to participate in public affairs extends beyond the mere right to participate in elections. In its General Comment No. 25 (1996), the Human Rights Committee confirmed that the conduct of public affairs is a broad concept that covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. In its discussion of participation in non-electoral contexts, the Guidelines stresses that participation in decision-making

processes may happen at different levels, from provision of information, through consultation and dialogue, to partnership or co-drafting (paragraph 53). Paragraph 9 of the Guidelines additionally makes explicit the concept that public participation rights accrue to all “rights-holders”, a term broader than simply “citizens,”



*The present guidelines refer, when appropriate, to “rights holders”. This term seems more apt than others to include forms of participation, encompassing initiatives that involve all individuals affected or concerned by the decisions at stake.*



Both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and ICERD—conventions focused on the protection of marginalized groups—protect the right of women (Article 7 of CEDAW) and racial minorities (Article 5(c) of ICERD), respectively, to participate in political and public life. General Recommendation No. 23 to CEDAW confirms that this concept of participation in political and public life is broadly understood and, in addition to electoral rights, encompasses:



*many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women’s organizations, community-based organizations and other organizations concerned with public and political life.*



ICERD General Recommendation (48) on Article 5 specifies that while some of the rights enumerated in Article 5, such as the right to participate or stand in elections or vote, pertain only to citizens, many of the other rights are enjoyed by all people living

in a given State. One can argue that because the General Recommendation names solely electoral rights as pertaining only to citizens, all other Article 5 rights, including the right to participate in the conduct of public affairs broadly understood, belong to any resident.

The Open Government Declaration, a key document endorsed by Member States of the Open Government Partnership (which Jordan joined in 2011), obliges States to uphold the principles of open and transparent government. Specifically, the Open Government Declaration commits State to support “public participation of all people, equally and without discrimination, in decision making and policy formulation.”

A few international instruments specifically confirm that migrants have the rights to public participation in certain non-electoral contexts. For example, Article 42(2) of the Migrant Workers Convention obliges States to facilitate migrant worker participation in their host communities:



*States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.*



Articles 43(1) and 45(1) of the Migrant Workers Convention further specify that migrant workers and their families should enjoy equal treatment as nationals with respect to their “access to and participation in cultural life.”

The GCM outlines certain activities promoting migrant participation in their host communities that States should take

to achieve the Compact’s objectives. These activities include:



*Build[ing] upon existing practices at the local level that facilitate participation in community life, such as interaction with authorities and access to relevant services, through the issuance of registration cards to all persons living in a municipality, including migrants, that contain basic personal information, while not constituting entitlements to citizenship or residency (paragraph 20(g)).*

*Empower[ing] migrant women by eliminating gender-based discriminatory restrictions on formal employment, ensuring the right to freedom of association, and facilitating access to relevant basic services, as measures to promote their leadership and guarantee their full, free and equal participation in society and the economy (paragraph 32(e)).*

*Establish[ing] community centres or programmes at the local level to facilitate migrant participation in the receiving society by involving migrants, community members, diaspora organizations, migrant associations, and local authorities in intercultural dialogue, sharing of stories, mentorship programmes, and development of business ties that improve integration outcomes and foster mutual respect (paragraph 32(f)).*



Building on the promotion of migrant participation embedded in the GCM, the 2022 Progress Declaration of the International Migration Review Forum, the primary document setting out State prioritization for GCM implementation, highlighted migrant participation in law and policy-making as a key area of focus. In paragraph 51 of the Progress Declaration States committed to “promoting the meaningful participation of migrants in policy discussions on issues affecting them, including in the COVID-19 response and recovery.” In paragraph 53 of the Progress Declaration, States committed

“to promoting [migrants’] meaningful contribution to policy development, delivery and reviews, and recommit to fostering inclusive and cohesive societies, by strengthening the provision of information, support and services, which contribute to migrants’ integration.” And, paragraph 5 of the Progress Declaration “stress[ed] the importance of ensuring the full, equal and meaningful participation of women in the formulation and implementation of migration policies, while recognizing their independence, agency and leadership.”

Thus, although international law does not clearly outline the contours of migrant and refugee rights to participate in political and public affairs outside of the elections, States have been strongly encouraged to guarantee such non-citizen participate rights in a wide range of law and policy-making, cultural, community affairs, administrative, societal, and economic contexts. It is particularly because migrants and refugees do not enjoy electoral rights in their host communities that their ability to otherwise participate in the political and public affairs takes on an outsize importance.

With respect to the actions that States should take to realize this right, the Guidelines recommend that States should proactively implement legal frameworks that protect and promote the equal right to participation in public affairs (paragraph 19(b)). These laws, policies and institutional arrangements should ensure the equal participation of individuals and groups in the design, implementation and evaluation of any law, regulation, policy, programme or strategy affecting

them (paragraph 19(c)). The Guidelines specifically call for States to:



*adopt legislative and policy measures and institutional arrangements to promote and ensure the equal participation of individuals and groups that are marginalized or discriminated against at all levels of decision-making processes and institutions (paragraph 20(e));*

*provide targeted capacity-building and civic education programs for all individuals and groups that are marginalized or discriminated against, taking into account specific challenges, such as illiteracy and language and cultural barriers, in order to empower them to be active participants in public life (paragraph 24(c));*

*develop formal permanent structures to ensure that participation in decision making processes is widely understood, accepted and routinely realized by both public authorities and rights holders (paragraph 56). These formal structures should be accessible to and inclusive of marginalized individuals and groups (paragraph 57); and*

*in peace processes and post-conflict and humanitarian situations, establish formal structures for the participation of internally displaced persons and refugees (paragraph 60).*



In addition to these specific actions, the Guidelines emphasize that the right to participate in political and public affairs cannot be seen in isolation from other rights. Rather, the effective exercise of this right requires an environment that respects and guarantees all human rights, in particular the right to equality and non-discrimination, to freedom of opinion and expression (including the right to access information) and to freedom of peaceful assembly and association.

## National Legislation



Public participation is achieved through practices designed to allow interested stakeholders to meaningfully input into, review and implement the laws, policies and practices that affect their lives, both at the national level and at the local level. Several types of laws and policies directly relate to public participation, namely legislation relating to the right to association and assembly, the right to information, and the right to expression. Consultative activities with associations and CSOs can also be considered a type of public participation.

Jordan does not have specific legislation regulating public participation. This means that migrants and refugees' ability to participate in public affairs is largely dictated by Jordanian law and policy on association, assembly, access to information and expression.

As discussed previously in this report, Jordanian legislation offers less protection for refugees and migrants to exercise their

freedom of association and assembly than the broader coverage provided under international law. In particular, Jordanian law and practice impose many restrictions on non-citizens' ability to establish or join trade associations, which is a key form of public participation for migrant workers. These restrictions on non-citizen involvement in trade associations have a significant negative impact on the ability of migrants and refugees to participate in public affairs.

Effective public participation also requires that individuals can access information related to the subject in which they wish to participate. However, as discussed in more detail below, the Law on the Right to Access to Information does not allow non-Jordanians to access unpublished information, nor to request information from the relevant authorities. This constraint on access to information greatly impedes migrant and refugee ability to effectively participate in an informed way in the decision-making that affects their lives.

# Findings from Study Participants



## Findings from the Human Rights Expert Study Participants

The human rights experts interviewed for this report noted the lack of organized public participation opportunities for migrants and refugees; rather, migrant and refugee ability to participate appeared linked to the discretion of individual decision-makers. The human rights experts noted that non-citizens can mostly exercise their right to participation through the exercise of their rights to expression, assembly and access to information.

## Findings from the Refugee Study Participants

Despite the few opportunities that formally invite refugees' public participation, certain mechanisms do exist for their participation, such as the local security councils in refugee camps. These local security councils are formed by the security services, which include the most influential individuals in the camps. Gender balance is also taken into consideration when forming these councils. The security councils identify the needs of the camp and the refugees living therein, resolve problems and conflicts, and promote the general participation of refugees in the administration of the camp. Refugees interviewed for this report expressed their appreciation of these security councils because of their work communicating the voice of refugees inside the camp, improving the quality of camp life and services and contributing to decision-making that reduces problems and challenges within the camp.

In addition to the security councils, there are other councils within the Syrian

refugee camps that are administered by the UNHCR that aim to identify the needs of refugees. These councils can follow up on refugees' complaints, claims or paperwork, facilitate refugee access to services and develop camp services.

In 2011, the Refugee Affairs Directorate in Security Head Quarters created the office of the Prosecutor General of Refugee Affairs. Refugees inside and outside the camps can file complaints or grievances against any security personnel with the Prosecutor General of Refugees. This gives refugees some redress mechanism and voice if certain rights have been violated.

The research team found that there are community-based committees in about 25 areas in Jordan established by refugees of different nationalities. The committees serve to communicate the needs and priorities of refugees to UNHCR as a sort of public participation focal point. However, the refugees interviewed for this report were neither aware of these committees nor any official public participation mechanism available for refugees living outside of the refugee camps. Rather, the refugees study participants reported that refugees only receive what goods or services are approved by the authorities without participation in any way.

## Findings from the Migrant Study Participants

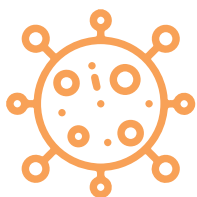
Migrants in Jordan have even fewer opportunities than refugees for participation in public affairs; there appears to be no mechanism for their public participation in any form. Migrants study participants reported feeling that they were discriminated against compared to refugees. They expressed a

belief that the State protects the rights of refugees more than the rights of migrants because of UNHCR's presence in Jordan and because of significant commitment from the international community around refugee rights.

Participation in a trade union or professional association might be a way for migrants to participate in public affairs. However, migrants are often not aware of opportunities to participate in trade unions or professional associations.

Migrant study participants mentioned that the companies and factories deduct a monthly amount from migrants' salaries as a union subscription fee without the worker knowing that he is registered in a trade association or aware of what rights and benefits he might thereby be entitled to. Migrants who have joined trade associations of their own free will are not entitled to vote or run for any position in these associations, which prevents them from representing themselves and participating fully in public affairs.

### The Impact of the COVID19- Pandemic on the Right to Public Participation



On 21 March 2020, the Jordanian government imposed a lockdown in all regions of the Kingdom. The government gradually switched to a partial lockdown on 25 March 2020, with the official departments remaining closed until 31 May 2020. During the comprehensive lockdown all forms of public participation stopped, including

those camp-based security councils that worked between refugees and UNHCR and the community committees outside refugee camps. The research team did not find any government measures that would ensure the participation of citizens and civil society organizations in the decision-making process related to the COVID-19 pandemic, whether in person or in electronic form.

## Refugee and Migrant Women and Public Participation



The local security councils that operate in the refugee camps take gender-balance into account and the refugee study participants reported that these councils often have substantial female representation. However, even with these local security councils there are relatively few mechanisms available to all refugees—women and men—for participation. In addition, refugee women may also be limited in their participation opportunities by the pressure to stay home with their families, rather than participating in law, policy, and decision-making. Similarly, migrant women suffer from the same lack of any mechanism for public participation as do migrant men, and likely the same societal pressures to stay in the domestic sphere.

In general, women in Jordan—whether Jordanian, refugee or immigrant—face greater challenges in exercising their rights to public participation due to the lack of information related to women and topics of particular interest to women. Poor classification of information and the lack of gender-responsive and gender-sensitive information leaves women with less useful information, thus hindering their ability to knowledgeably participate in matters of importance to them. This lack of relevant information can hamstring women in administrative and legislative positions who look to act on female-focused issues. Women may also suffer from less digital literacy and internet access which results in more restricted ability to communicate outside of their homes and access information.

## Analysis



Jordanian legislation is inconsistent with human rights conventions and instruments which dictate that, outside of the electoral context, States should proactively adopt legislative and policy measures and institutional arrangements to promote the participation of marginalized groups, such as migrants and refugees. **There are currently no mechanisms directly aimed at promoting migrant participation.** Moreover, migrants remain largely unaware of the few vehicles, such as membership in a professional association, that might give them a voice in decision-making that affects them.

Refugees fare a little better, but their opportunities for participation are still few. Public participation for refugees

in refugee camps is limited to the community-based security councils and the UNHCR-administered councils. The only vehicles for refugees living outside of the camps are those community-based committees organized by refugees themselves in coordination with UNHCR. There is thus a clear paucity of the public participation opportunities for refugees in Jordan, while migrants do not enjoy any genuine opportunity to participate.

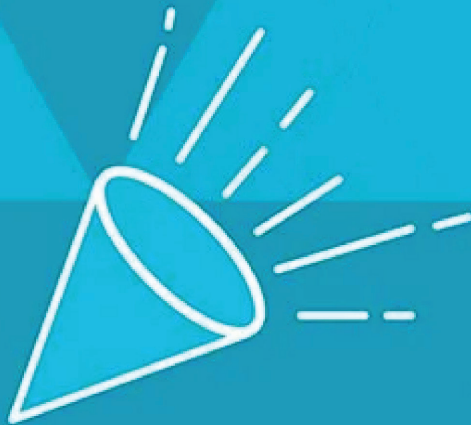
**Women refugees and migrants face all of the same public participation challenges as their male counterparts, and may additionally struggle with less access to information that is relevant to their needs; thus hindering their ability to meaningfully participate.**



# The Right of Access to Information for Refugees and Migrants

## Access to **INFORMATION**

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The right to information guarantees individuals' access to receive sufficient information from the administration of a society about the decisions that affect them, subject only to a limited regime of exceptions. As noted by the Guidelines, access to information "is an enabler of participation, and a prerequisite that ensures the openness, transparency of, and accountability for, States' decisions." (Paragraph 15).

The right of access of information is a crucial part of the right to freedom of expression and is guaranteed to all individuals by numerous international conventions, treaties and instruments, such as the UDHR (Article 19), the ICCPR (Article 19(2)) and the Arab Charter on Human Rights (Article 32). Similar to the rights to freedom of assembly and association, this right can only be limited where such restriction is necessary, and narrowly tailored to achieve a particular enumerated end. (ICCPR, Article 19(3); Arab Charter, Article 32(2)).

General Comment No. 34 to Article 19 of the ICCPR emphasizes that States should give effect to the right of access to information through putting into the public domain government information of public interest, and making every effort to ensure easy, prompt, effective and practical access to such information.

States should also enact freedom of information legislation. The Guidelines encourage States to ensure that laws and regulations on access to information comply with international law and further emphasize that States should facilitate access to information for groups who are marginalized or discriminated against (paragraph 22(c)).

The right to access information is specifically guaranteed to migrants through the Migrant Workers Convention which safeguards the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice." (Article 13(2)). The Migrant Workers Convention protects migrants' right to particularly relevant forms of information, such as information related to the conditions of their admission into, stay in or temporary absence from their host States, and their rights and obligations under its law (Articles 33 and 38); and information related to any arrest or detention (Article 16 and 18). Article 65 of the Migrant Workers Convention obliges States to maintain "appropriate services to deal with questions concerning international migration of workers and members of their families", whose functions include the provision of key information.



Jordan does not have a constitutional guarantee of the right to information. However, in 2007, Jordan passed the Law No. 47 on the Right to Access to Information (Rtl law), becoming the first Arab country to pass a law on ensuring access to information. Unfortunately, the Rtl law contains loopholes that compromise Jordanians' ability to access information and certain provisions that contravene the international principles and best practices that guarantee the right to access to information for all persons. For example, the Rtl law includes broad exceptions to disclosing information, in part by preserving secrecy provisions in other laws which themselves fail to conform to international standards. Classified information is exempted from disclosure, including certain information relating to foreign relations, state secrets, correspondence between governmental entities and foreign states or organizations, pending investigations, intellectual property rights, or banking or medical records. The law leaves what is considered "classified" information to government discretion, and allows material to be classified in response to an information request. The law also requires that individuals have a "legitimate interest" in any information requested, which must be explained when they make the request. Moreover, the law does not require public authorities to proactively disclose information of public interest even in the absence of a request.

Most importantly with respect to migrants and refugees, Article 7 of the Rtl law only guarantees to Jordanian citizens the

right to make informational requests. Jordanian legislation therefore does not protect, much less enable, non-citizens' right and ability to access the information of importance to them.

Although the Rtl Law only guarantees to Jordanians the right to access information, the government is working on proactively disclosing of certain types of general guidance information, including some information of interest to refugees and migrants. For example, the Ministry of Social Development published on its website the Law on Associations, which sets out the conditions for the establishing associations, and guidelines explaining the mechanisms for registration and classification of associations. The Ministry of Labor provides to migrant and refugee workers information that it deems relevant to their interests. For example, the Ministry provides information on: recruitment of foreign workers; how to issue or renew a work permit; residency or visa-related departure and return requirements; complaint filing or administrative procedures (such as a manual of legal forms for clearance, judicial sponsorship, departure requests, eviction, and transfer requests); and the issuance of flexible work permits to Syrian migrant workers. The Ministry of Interior has also made available information and guidance on the re-registration of Syrian refugees outside the camps in order to provide services.

Unfortunately, the information provided by the various ministries is published in Arabic only and is therefore inaccessible to non-Arabic-speaking migrants.

## Findings from Study Participants



The human rights experts interviewed for this report believe that the security services disclose more information relevant to refugee and migrant concerns than government institutions. Nonetheless, the information published was not informed by refugee or migrant request or interest but rather is the information selected for publication by the security services or the government. This information trends towards guidance documentation and does not satisfy the more holistic need for migrants' and refugees' right of access to information.

Access to the information that is published by the government may also be difficult for migrants and refugees. This information is published through websites, mostly in Arabic (or some in English), which can make it difficult for migrants and refugees who are not digitally-connected or do not read Arabic or English to access. Asked how they learn about basic information that concerns them on a daily basis, refugee and migrant study participants reported that international organizations and civil society institutions help communicate this information to them by translating it into some non-Arabic languages so that non-Arab migrants can read it.

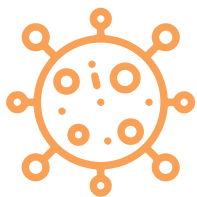
Considering the language challenge for non-Arab migrants, the migrant and labor rights expert study participants noted that a large proportion of migrant workers are uneducated. Some do not speak Arabic or English and cannot access to information published only in Arabic or English. The migrants most affected by the language difference are migrant workers from East

Asian countries. In official circles, especially in development areas where non-Arab migrant workers abound, this language barrier poses a significant challenge for migrants to access the information they may need for their daily activities.

We asked migrant study participants what information they needed but did not know where to access. Most of their answers focused on information related to accommodation; the procedures for bringing over spouses and children; their health, education-related rights and services available and the costs they would have to pay for these services.

The refugee study participants reported even greater challenges in this area. The information they need and do not have access to is largely related to UNHCR. Refugees desire information around the mechanisms for obtaining asylum in foreign countries; the bases on which the UNHCR chooses who can seek asylum in a foreign country; the mechanisms of and criteria for distribution of food and financial aid to refugees, and information around health services. The refugee study participants reported that they cannot figure out who will be treated at the expense of the UNHCR, the government or donors (or why or how such costs are covered). Refugees are unable to obtain answers to these key questions due to the lack of legislation protecting their right to access information and the lack of adequate channels of communication between refugees and UNHCR and the Jordanian government.

## The Impact of the COVID-19 Pandemic on Access to Information



On 21 March 2020, the Jordanian government imposed a lockdown in all regions of the Kingdom. The government gradually switched to a partial lockdown on 25 March 2020, with the official departments remaining closed until 31 May 2020. Under the first few days of the lockdown, all tools to access information were stopped, except Arabic-language press releases announced in government press conferences, which were limited to specific information. Individuals were prohibited from publishing any information related to the pandemic other than the information disclosed by the government at its official conference.

Some non-Arabic-speaking immigrants faced challenges with access to COVID-related instructions and, and defense orders that were published only in Arabic. They relied on their Arab friends or neighbors to understand them, therefore they were more likely to access false information that might have put them in legal jeopardy.

For refugees in camps, UNHCR communicated information to them about the pandemic and its aftermath. Refugees outside refugee camps obtained information through Jordan's official media channels.

## Refugee and Migrant Women and Access to Information

Under domestic legislation governing the right to access information, non-Jordanian refugees and migrants are not given the right to access to information; this applies equally to migrant women. Migrant women also suffer from the same challenges as other migrants regarding information only being provided in Arabic.

The human rights experts interviewed for this study argue that refugee and migrant women's more limited access to the Internet and their particular need for

empowerment in Jordanian society means they are disproportionately affected by their inability to access information. This inability to access information means that women migrants and refugees remain less aware of the opportunities available to them and information that may contribute to their social and economic development. This lack of information may result in their becoming less involved in public affairs.





Although Jordan has Rtl legislation that should enable the public's access to information, in practice migrants and refugees struggle to access the information they need to knowledgeably make decisions or input into the decisions that affect them—particularly around migration or asylum procedures for themselves or family; or food distribution, health or education-related services, rights and expenses. The Rtl Law does not guarantee non-Jordanian's right to request information. While the government does proactively disclose certain types of information of interest to migrants and refugees, it is the sole arbiter of what information will be disclosed. **Migrant and refugee communities do not have any formal mechanism by which they may request or access particular types of information disclosure.** Moreover, because the information that the government

discloses is largely in Arabic (or English), it remains inaccessible to migrants or refugees who do not speak these languages. There appears to be little effort to translate the disclosed information into the more common migrant or refugee languages to make it more accessible for these groups. Information disclosed strictly online may also be difficult to access to non-digitally connected migrants or refugees. **These linguistic and digital barriers may disproportionately impact migrant and refugee women's ability to access information.**

Thus, despite its Rtl Law, Jordan is largely failing to ensure that migrant and refugee communities are able to access the relevant information they need. This failing is likely also hindering migrant and refugee ability to meaningfully participate in public affairs.

# Recommendations



## For the State of Jordan:

1. Amend existing legislation to ensure that assembly, association, public participation and access to information rights are in line with international law and standards. This will have a positive impact on refugees and migrants themselves and on host communities, both in terms of services and development.
2. Ensure that all policies and practices restricting assembly, association, public participation or freedom of information rights as a result of the pandemic are narrowly tailored to reduce COVID-19 spread with minimal disruption to civic freedoms, and are removed alongside the receding risk of disease.
3. Amend domestic legislation governing peaceful assembly to provide explicit protection for the right to freedom of peaceful assembly for refugees and migrants.
4. Respect the rights of migrant and refugee protestors, especially in QIZ zones. Ensure that no migrant or refugee is subjected to any reprisal, such as deportation, for exercising his or her assembly rights. Ensure that policies, procedures and training for security forces around migrant and refugee protest reflect respect for assembly rights.
5. Amend domestic legislation governing association to provide explicit protection for the right to freedom of association for non-Jordanian refugees and migrants, including their right to establish societies and serve on society boards without government permission.
6. Along with the governing bodies of professional associations and trade unions, amend the laws of the professional associations and trade unions to ensure that refugees and migrants can freely establish, join and lead such associations. Provide additional outreach and support to migrant and refugee workers to ensure that, in practice, they are able to join professional associations and enjoy their benefits.
7. Repeal all laws and policies that prevent Syrian refugees from establishing, joining or leading any associations or unions.
8. Formally recognize, protect and implement the right to participation for migrants and refugees, and strengthen cooperation between the government, international organizations and civil society institutions to realize the right to public participation and to identify gaps, needs and solutions.
9. Promote the public participation of refugees and migrants through passing legislation that establishes formal opportunities and mechanisms for migrants and refugees to engage in the creation, implementation and evaluation of laws, policies and decision-making that affects their lives.
10. Support specific outreach to refugee and migrant women and mechanisms for their public participation.
11. Amend legislation governing freedom of access to information, in particular article 7 of the Law on Guaranteeing the Right to Information, to allow migrants and refugees to make informational requests, and remove restrictions on freedom of access to information and the classification of information.

#### For UNHCR:

1. Expand and support the role of the security councils and the community-based committees in decision-making that affects refugees inside and outside of camps, respectively.
2. Increase transparency by fully disclosing the basis for providing financial, material and medical support to refugees and the basis for choosing who is entitled to travel to foreign countries and asylum in other countries.

#### For civil society:

1. Raise awareness of migrants and refugees around their right to peaceful assembly and association, public participation and access to information under international law and Jordanian law. Such awareness-raising might focus on:
  - a. migrant and refugees' rights and ability to join and participate in the activities of associations and trade unions; and
  - b. the particular difficulties faced by women migrants and refugees in exercising these rights, and how communities can best support their ability to do so.
2. Provide legal resources for migrants and refugees who risk reprisal or deportation as a result of the exercise of their assembly rights.
3. Monitor:
  - a. where migrant and refugee protests are disbursed by security officials and where protestors face reprisals or deportation or other violations of their right to assembly;
  - b. where migrant and refugee workers may have wages deducted from their salaries for trade union membership fees, without being able to join such unions and enjoy their benefits; and
  - c. other common violations of migrant and refugees association and assembly rights.
4. Elevate cases where migrants or refugees face reprisal as a result of the exercise of their assembly rights to UNHCR, the UN Special Rapporteurs on the Rights to Freedom of Peaceful Assembly and of Association, on the Human Rights of Migrants, on the Right to Freedom of Opinion and Expression and other international human rights bodies.
5. Support interested migrant and refugee workers in joining professional associations or trade unions. Liaise with professional association and trade union leadership to build support for migrant and refugee membership in these organizations.
6. Support the refugee community-based committees to participate in law, policy and other decision-making with State and UNHCR actors. Work to ensure that these committees are well-represented by representatives from varying refugee demographics.
7. Advocate for the creation of formal participation mechanisms for migrants and refugees.

#### For all stakeholders:

1. Consult with migrant and refugee communities to determine what types of information are of greatest interest and use to them. Proactively publish these types of information after consultations. Pay particular attention to the informational needs to women migrants and refugees.
2. Ensure that information published is accessible to migrant and refugee communities by translating it into common migrant and refugee languages. Provide interpreters for the most common migrant and refugee languages, especially the languages of East Asian countries, which are widely spoken in industrial and development areas. Work to make such information available to migrants and refugees without internet access through postings, hand-outs or rapporteurs in migrant and refugee communities and spaces. Pay particular attention to the accessibility needs to women migrants and refugees.