



**Examining
the protection of migrants
in vulnerable situations**

in the contexts of Jordan and Lebanon

This report was produced by INTERSOS in the framework of the Middle East and Eastern Mediterranean branch of the Mixed Migration Centre (MMC) and funded by the Swiss Federal Department of Foreign Affairs (FDFA).

The Mixed Migration Centre (MMC) was established in February 2018. It brings together various existing regional initiatives – hosted or led by the Danish Refugee Council (DRC) – engaged in data collection, research, analysis and policy development on mixed migration issues into a new global network of mixed migration expertise.¹ The Mixed Migration Centre - Middle East & Eastern Mediterranean, provides quality mixed migration-related information for policy, programming and advocacy from a regional perspective. Our core countries of focus are Iraq, Jordan, Lebanon, Syria, Turkey, Israel/OPT and Greece.

For more information visit: mixedmigration.org

Primary Author: Hannah Leach

Secondary Author: Alexandra Knezevic

Considerations: This study would not have been possible without the generous support of organisations and individuals who gave their time and expertise for interviews. Special thanks go to Arab Renaissance for Democracy and Development (ARDD), Tamkeen Fields for Legal Aid, the Jordan INGO Forum (JIF), the International Domestic Workers' Federation (IDWF) Lebanon, the International Organisation for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), INSAN Association, Caritas Lebanon, Legal Agenda, the Embassy of Switzerland in Lebanon and the Jesuit Refugee Services (JRS).

Cover photo: Mais Salman / DRC



FUNDED BY:



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

**Federal Department of
Foreign Affairs FDFA**

¹ This includes RMMS East Africa & Yemen, RMMS West Africa, the Mixed Migration Platform (MMP) in the Middle East, the Global Mixed Migration Secretariat (GMMS) in Geneva and different programmes of the Mixed Migration Monitoring Mechanism Initiative (4Mi).



TABLE OF CONTENTS

LIST OF ACRONYMS.....	6
ABSTRACT.....	7
INTRODUCTION.....	8
Objectives.....	11
Methodology and context of research.....	12
THE EVOLUTION OF GLOBAL MIGRATION GOVERNANCE	14
The institutional framework for migration.....	15
Soft migration law.....	15
Towards a Global Compact for Safe, Regular and Orderly Migration	16
INTERNATIONAL LAW RELEVANT TO MIGRATION AND HUMAN RIGHTS	18
Defining the boundaries of International Migration Law: who is in and who is out?	19
Regular vs. Irregular.....	19
How we came to understand migrant vulnerability.....	20
GMG PRINCIPLES.....	22
CASE STUDIES.....	24
Jordan	25
Jordanian migration and labour context	25
The domestic legal context for migrants and adherence to international treaties	27
Findings.....	29
Awareness and perception of the GMG principles.....	29
Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law)	29
Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions)	30
Lebanon.....	36
Lebanese migration and labour context	36
The domestic legal context for migrants	37
Findings.....	40
Awareness of and perception of the GMG principles	40
Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law)	41
Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions)	43
CONCLUSION.....	46

LIST OF ACRONYMS

CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on Elimination of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
EU	European Union
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GCIM	Global Commission on International Migration
GCM	Global Compact on Safe, Orderly and Regular Migration
GCR	Global Compact on Refugees
GFMD	Global Forum on Migration and Development
GMG	Global Migration Group
ICESCR	International Convention on Economic Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
ICG	Intergovernmental Consultations on Asylum and Immigration
ICMD	International Conference for Migration and Development
ICRMW	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ILO	International Labour Organisation
ILS	International Labour Standards
IML	International Migration Law
I/NGO	International/Non-Governmental Organisation
IOM	International Organisation for Migration
MICIC	Migrants in Countries in Crises
MIVS	Migrants in Vulnerable Situations
MMP	Mixed Migration Platform
MMC	Mixed Migration Centre
MoI	Ministry of Interior
MoFA	Ministry of Foreign Affairs
MoL	Ministry of Labour
MoU	Memorandum of Understanding
NYD	New York Declaration
OHCHR	Office of the High Commissioner on Human Rights
oPt	Occupied Palestinian Territories
RCP	Regional Consultative Process
SRSG	Special Representative of the Secretary-General
SDG	Sustainable Development Goal
SEZ	Special Economic Zone
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Human Rights
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East

ABSTRACT

As the intergovernmental negotiations on the Global Compact for Safe, Orderly and Regular Migration draw to a close, there has been increasing debate on the issue of responsibility sharing and the protection of irregular migrants outside of the scope of the 1951 Refugee Convention.

From a normative standpoint, there is no shortage of legal 'hard' and soft law instruments and provisions protecting the rights of migrants, but ratification and implementation of conventions aimed at protecting the rights of migrants lags. It stands to reason that major legal migration instruments which criminalise irregular migration enjoy a considerably higher ratification rate than instruments attributing rights to migrants and migrant workers. One example is evident in the reality that the ICRMW remains largely unratified by migrant receiving countries, since its inception in 1990.

As one of the first attempts at collating existing migrant rights law into a normative framework, the OHCHR Principles and Guidelines on the rights of migrants in vulnerable situations provide an opportunity to take stock. This research provides a country-level case study analysis of two of the principles, and their accompanying guidelines, listed in these guidelines. These are Principle 6, the right to human rights-based returns, and Principle 14, the right to just and favourable working conditions. The two principles were examined in the contexts of Jordan and Lebanon, in order to ascertain existing progress towards, or evident gaps in, the rights of migrants outlined in the framework, from the perspective of state policy and procedure. We share this report with the caveat that these guidelines are yet to be adopted by states, and as such, these findings seek to hold states accountable for existing responsibilities collated in this document, to inform the overall process, to support the finalisation and to bridge the gap between international migration frameworks of this kind and actors in the domestic context. This is also taking into account the considerable pressure that states in the region have been under as hosting states for the displaced throughout several waves of protracted crises.

The study was conducted in parallel with the thematic consultations in preparation for the Global Compact for Migration in Jordan and Lebanon. Stakeholders interviewed were all active in one way or another in protecting the rights of migrants within these contexts. In Jordan and Lebanon, those interviewed unanimously stressed the need for strengthening of existing domestic provisions or international standards already adhered to by the Jordanian and Lebanese governments as the chief priority. In Lebanon, the development of an overall regulatory framework on refugees and migration was equally highlighted. Consultations concluded that the guidelines will be most effective in identifying priority areas for advocacy and supporting lobbying with institutions responsible for furthering legislative development towards migrant rights.



INTRODUCTION

As global migration governance continues to evolve, the need for coordination and coherence grows more pressing year by year. With it, the nuances of protection of the human rights of migrants, regardless of status, likewise demand more focus. Migrants, like everyone else within a state's jurisdiction, are protected by international human rights law, in keeping with the fundamental principle of non-discrimination. For refugees, the UN 1951 Convention on Refugees, and its 1967 protocol, afford international protection to those fleeing "a well-founded fear of persecution" in their country of origin. When it comes to safe, orderly and regular migration, nation states have often focused on regular labour migration initiatives and family reunification as the dominant channels for movement (though myriad administrative and financial challenges for eligible candidates continue to obstruct access). Irregular migration, however, remains a political football in continuing discussions on addressing the drivers of migration and movement-related rights. From incentivising factors, to upholding human rights at departure, en route and upon arrival for migrants outside of these pathways, consensus is yet to be reached on who is responsible for/has access to what.

In the absence of a comprehensive institutional framework on international migration, normative frameworks on the human rights of migrants, smuggling, trafficking, refugees and labour migration co-exist and on occasion overlap. Advocates for a comprehensive soft law migration framework have noted that, although human rights norms for migrants within International Labour Organisation (ILO) legislation exist, irregular migration is usually approached as a residual category from both these and the international protection frameworks.² Whereas certain commentaries have underscored the risk that non-binding frameworks will dilute and undermine existing rights, others have focused on their potential capacity to help develop and operationalise rights provision in the current migration climate.³ Advocates posit that, in a world of rising rates of non-compliance with "hard" human rights law, soft law frameworks can serve to consolidate existing conventions in more informative formats. In doing so, such frameworks can remind states of their human rights obligations and encourage cohesive ratification of conventions, not to mention state investment in the necessary socio-economic infrastructure to facilitate improved rights for all. Those in favour have similarly drawn attention to their capacity to make duty-bearing agencies work together more coherently.⁴

Over the past decades, multilateral discussions on migration have witnessed an increased acceptance of human rights and governance issues, in addition to global development⁵, as critical issues. Nevertheless, and particularly since the beginning of the Syrian Crisis⁶, discussions on migration governance at the state level have increasingly focused on how to deter irregular movement through securitised means, rather than focusing on increased opportunities for regular movement or protection.⁷ This is underscored by the fact that international legal instruments first and foremost aimed at criminalising aspects of irregular migration have gained greater traction among states than instruments aimed at safeguarding the human rights of migrants.

2 Betts, Alexander (2010) [Soft Law and the Protection of Vulnerable Migrants](#)

3 Betts, Alexander; Collier, Paul (2017) *Refuge: Transforming a broken refugee system*, Penguin Random House 2017

4 Ibid.

5 "Global development" here is a term broadly used to refer to human development, including poverty reduction, improvement of health, education and economic indicators and an overall decrease in global inequality. See OECD (2018) [Perspectives on Global Development](#) for more information

6 In relation to 'the Syria crisis', the Mixed Migration Centre (MMC) refers to mass internal and external displacement which has occurred as a result of the Syrian civil war since the country descended into conflict in 2012.

7 MMP (2017) MMP Policy Brief Mixed Migration and the Global Compacts – A perspective from the Middle East, October 2017

One thing is clear: refugee and other migrant issues cannot continue to be examined within individual vacuums. The world is witnessing soaring numbers of protracted crises and conflict, with a quarter of the global population living in affected countries.⁸ The immediate impact of such instability on total global displacement is evident⁹, not to mention the ripple effect on the socio-economic conditions of neighbouring countries receiving the bulk of such movement.¹⁰ The so-called ‘asylum-migration nexus’¹¹ is not a new concept, yet a coherent approach on how to manage mixed flows remains elusive (and upholding the human rights of all, regardless of legal status). These two fields meet again when considering conditional agreements that provide development assistance to refugee-hosting countries on the basis of their capacity to stem irregular migration to countries in the ‘Global North’.¹² ‘Root causes’ have been described as the new ‘central refrain’ of European migration policy, for instance, with agreements increasingly constructed around tackling irregular migration ‘at the source’.¹³ This is evidenced by the language that came out of the Valletta Summit of 2015.¹⁴ Recent studies have shown that increased economic development will actually bolster higher rates of migration from South to North, facilitating movement through greater national resources for travel. Despite the increasing integration of this approach into migration policy in the Global North, evidence indicates that, in two thirds of the world’s poorest countries, the average individual lives under the economic threshold at which point outward migration begins to decline.¹⁵

Numerous state-led processes have attempted to develop institutional frameworks on migration and accompanying law and soft law migration frameworks. In 2016, the New York Declaration (NYD) indicated the intention to initiate a process to negotiate two “Global Compacts”, one on Refugees (GCR) and another on “Safe, Regular and Orderly Migration” by 2018. The NYD offers an opportunity to better integrate migration into the UN system, and therefore to support improved migration policies amongst its member states. Through this process, UN member states reaffirmed to fully protect the human rights of all refugees and migrants, regardless of status. The Declaration noted that, although their “treatment is governed by separate legal frameworks, refugees and migrants have the same universal human rights and fundamental freedoms... face common challenges and have similar vulnerabilities, including in the context of large movements”.¹⁶ Also recognised in the Declaration is the work undertaken by the Global Migration Group (GMG) to develop principles and guidance on the protection of the human rights of migrants in vulnerable situations. This study focuses on this initiative exactly. It takes point of departure in the “Principles and

-
- 8 FAO (2017) KORE (Knowledge Sharing Platform on Resilience), Protracted crises and conflicts
- 9 UNHCR puts this figure at 65.6 million forcibly displaced persons in 2017, 22.5 million of whom it categorises as ‘refugees’. UNHCR (2017) Statistical Yearbooks: Figures at a glance. The Internal Displacement Monitoring Centre (IDMC) estimated that over 37 million were internally displaced due to conflict, violence and disasters during the first half of 2017. IDMC (2017) Database: Internal displacement as of June 2017
- 10 Devarajan, Shantayanan; Mottaghi, Lili (2017) [Middle East and North Africa Economic Monitor, October 2017 : Refugee Crisis in MENA, Meeting the Development Challenges](#), 11 October 2017
- 11 UN High Commissioner for Refugees (UNHCR) (2003) Agenda for protection; Crisp, Jeff (2008) Beyond the nexus: UNHCR’s evolving perspective on refugee protection and international migration, April 2008; UNHCR (2017) UNHCR Statement, IOM International Dialogue on Migration Panel 1: Understanding migrant vulnerability concepts, drivers, protection frameworks and gaps, 18 July 2017; IOM (2017) Global Thematic Paper: Protection of the human rights and fundamental freedoms of migrants and the specific needs of migrants in vulnerable situations
- 12 Gray, Kevin; Gills, Barry (2015) [South–South cooperation and the rise of the Global South](#), Third World Quarterly Volume 37, 2016 - Issue 4: Rising Powers and South–South Cooperation, 9 November 2015; Amnesty International (2016) European Commission “compacts” represent responsibility-shirking, not responsibility-sharing, 27 June 2016; MMP (2017) [Infographic – Policy dominoes: Recent developments in restrictive EU migration policies](#), August 2017
- 13 Chadwick, Vince (2017) Devex, [What does EU development policy mean by ‘root causes of migration’?](#), 16 November 2017
- 14 Council of the European Union (2015) [Valletta Summit on Migration](#), 11-12 November 2015
- 15 Daoa, Thu Hien; Docquiera, Frédéric; Parsons, Chris; Peri, Giovanni (2016) IRES, Université Catholique de Louvain; Department of Economics, University of Bielefeld; FNRS, National Fund for Scientific Research; Belgium Business School, University of Western Australia; Department of Economics, University of California, Davis, [Migration and Development: Dissecting the Anatomy of the Mobility Transition](#), December 2016; Clemens, Michael; Postel, Hannah (2017) GLM|LIC Synthesis Paper No. 8, [Deterring Emigration with Foreign Aid: An Overview of Evidence from Low-Income Countries](#), November 2017
- 16 United Nations General Assembly (UNGA), A/RES/71/1, [New York Declaration for Refugees and Migrants: resolution](#), 3 October 2016

Guidelines, Supported by Practical Guidance on the Human Rights Protection of Migrants in Vulnerable Situations”.¹⁷ The framework contains 20 principles with corresponding guidelines and focusses on the human rights of migrants in need of protection under the IHRL framework, who may not otherwise qualify as refugees under the 1951 Convention. Without prejudice, it affords specific rights to refugees under refugee law and the human rights of, for example, trafficked persons, migrant workers, stateless persons and persons with disabilities, according to existing international instruments.¹⁸ This framework represents an attempt to address the gap between protection frameworks, catering to the rights of all people on the move.

In the case of the Levant, the legal mechanisms that grant rights to foreign nationals with regards to labour and return are limited in scope. Considering the influx of migrants into the region’s formal and informal labour markets in the wake of various conflicts, and its well-cemented position as a destination for foreign workers, two of the principles, with corresponding guidelines, are of particular interest for this study:

1. **Principle 6** which reiterates an obligation upon states to ensure that all returns fully respect the human rights of migrants and comply with international law
2. **Principle 14** which stipulates the rights of migrants to work, and in just and favourable conditions.

Objectives

This study seeks to analyse the awareness, usefulness and existing evidence of good practice in relation to the principles articulated through these guidelines in the mixed migration contexts of Jordan and Lebanon. By consulting local organisations and agencies responsible for upholding the rights of migrants, it aims to assess how far existing legal provisions are being implemented in line with the above principles, or to otherwise identify existing gaps. In the process it seeks to uncover experiences and impressions of local advocacy actors towards the utility of such international soft law instruments in their work.

This report endeavours to provide evidence to bolster the ongoing operationalisation of non-binding principles on protecting migrants in vulnerable situations at the global, regional and national levels. The time period of this research was designed to coincide with the culmination of the two Global Compact negotiation periods. Despite an increasing focus during the informal thematic consultations on the GCM, complementarity between the two Global Compact processes for refugees and regular migration, expansion of alternative legal pathways and protection for irregular migrants in mixed flows remain largely side-line issues within the region, let alone the broader global context of migration management. The direct correlation between the lack of pathways for safe, orderly and regular migration and irregular migration remains a contentious topic more often tackled from a security standpoint, rather than on of protection or opportunity.

¹⁷ GMG (2017) [Principles and Guidelines, supported by practical guidance on the human rights protection of migrants in vulnerable situations](#) (Draft, October 2017)

¹⁸ See specifically: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly Resolution 55/25 of 15 November 2000; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Adopted by General Assembly Resolution 45/158 of 18 December 1990; ILO, Migration for Employment Convention (Revised), 1949 (No. 97); ILO, Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Convention relating to the Status of Stateless Persons, United Nations, Treaty Series , vol. 360, p. 117; and the Convention on the Rights of Persons with Disabilities, adopted by the UN General Assembly on 13 December 2006.

Methodology and context of research

The study was conducted via a review of primary and secondary legal sources in the fields of human rights, labour and criminal law, existing literature and regional studies on the relevant migration and labour areas, policy briefs, commentaries and interventions from thematic consultations for the GCM. This literature review was complemented by structured interviews with legal and advocacy stakeholders, as well as policy makers in Lebanon (Beirut) and Jordan (Amman) in September 2017.

Both Jordan and Lebanon provide important opportunities to examine the asylum-migration nexus for several reasons. Firstly, both countries host significant migrant workers (of various nationalities) and both protracted and newly arrived refugee populations from Palestine, Iraq and Syria. To illustrate, together with Syria, Jordan and Lebanon have hosted the largest proportions of Palestinian refugees since 1948. From 2010-2015, an estimated 4.2 million persons left the Syrian Arab Republic, which resulted in an influx of 1.25 million to Lebanon and 975,000 persons to Jordan over five years.¹⁹ Like the majority of Arab States, neither country has ratified the UN 1951 Convention on Refugees. Furthermore, recent efforts to improve conditions and prospects for the influx of Syrian refugees has likely directly negatively impacted migrant workers through segmentation of donor funding that only improves labour integration for a select demographic, undermining opportunities for migrants of other origins.²⁰

Data from 2016 estimates that 54 million of the global migrant total are in the Middle East (encompassing displaced persons and other migrants).²¹ Of this, there are approximately 31 million non-displaced migrants, indicating a high percentage of migrant workers. Scarce comprehensive data on the exact number of migrant workers is available but estimates for Jordan and Lebanon do exist, with sources approximating 250,000 in Lebanon and up to 1.5 million in Jordan, though many believe this number to be higher.²² Disaggregation on the basis of formal and informal work is similarly limited. Unsurprisingly, monitoring of irregular migration (both stocks and flows²³) continues to pose a challenge to governments, the research realm and humanitarian responders alike, given the often clandestine nature of such movement, and the mixed character of irregular flows containing people on the move of varying legal profiles. Characteristically, there is very little known about irregular migration statistics in the Middle East in terms of current figures, and by extension on the number of migrants working in irregular situations.

This evidence gap further compounds the complexity in advocating for and responding to the protection needs, not only of migrants in vulnerable situations, but of all people on the move. The need for better visibility of individuals unqualified for international protection, but nonetheless in need of assistance, is of critical importance.

19 UN Department of Economic and Social Affairs (UNDESA), Population Division (2017) [World Population Prospects: The 2017 revision, Key findings and advanced tables](#)

20 Razzaz, Susan (2017) [A challenging market becomes more challenging: Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market](#)

21 Connor, Phillip (2016) [Middle East's Migrant Population More Than Doubles Since 2005](#), Pew Research Centre, 18 October 2016

22 Human Resources Information System (AI MANAR) (2015) Annual Distributions of Registered Foreign Workers (2010 - 2015); Swiss Agency for Development and Cooperation (2014), [Labour Migration in Jordan](#), December 2014

23 The Global Migration Data Monitoring Centre (GMDAC) defines 'irregular migrant stocks' as "numbers of irregular migrants at a certain point in time in a specific country or region". Conversely, 'irregular migrant flows' are defined by the GMDAC as "events and processes influencing the size and composition of the irregular migrant stock over a period of time". GMDAC; IOM (2017) [Measuring Irregular Migration: Innovative Data Practices Expert workshop](#), Berlin, Germany, 18-19 May 2017

In the run-up to the intergovernmental negotiations for the Global Compact on Safe, Orderly and Regular Migration (GCM)²⁴, UN Special Representative of the Secretary-General (SRSG) for International Migration, Louise Arbour, has pointed towards this data shortage impeding evidence-based policy decisions towards irregular migration and informal labour in particular. The need for collection, analysis and dissemination of disaggregated data that captures the full spectrum of mixed migration for the facilitation of safe, regular and orderly migration remains paramount.²⁵



A boy in an informal tented settlement in Zahleh, Lebanon. Photo: Mais Salman/DRC, January 2017.

24 The UN Summit on Addressing Large Movements of Refugees and Migrants took place in September 2016. UN Member States, committed to negotiate two “Global Compacts” on Refugees and “Safe, Orderly and Regular Migration”, the latter consisting of several thematic issues which will become part of a global agreement to be adopted at the international conference on migration and development (ICMD) in 2018. The GCR, on the other hand, will be initiated and developed by the UNHCR in close coordination with relevant states. The NYD urged UN Member States to consider “developing non-binding guiding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations, especially unaccompanied and separated children who do not qualify for protection as refugees and who may need assistance”. In order to complement national efforts to protect and assist migrants, the Guiding Principles will be developed using a State-led process with input from the SRSG on International Migration and Development, IOM, OHCHR, UNHCR and other UN entities.

25 Arbour, Louise (2017) [Closing remarks at the Inter-state Consultation Mechanisms on Migration and the Global Compact for Safe, Orderly and Regular Migration, Closing Session: Reflections on the GCM Process, Contributions and Way Forward](#), Geneva, October 2017



THE EVOLUTION OF GLOBAL MIGRATION GOVERNANCE

The institutional framework for migration

Most notably within the last five years, the centrality of state sovereignty, coupled with diverging opinions among the world's migrant-receiving and sending states on issues including human rights and responsibility sharing, have slowed the development of global migration governance.²⁶

After the Universal Declaration of Human Rights (UDHR) of 1945, major international human rights treaties, with some specific provisions for migrants, were concluded from 1965 to 2006.²⁷ Among these major international human rights treaties figure the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW), which was adopted in 1990 but only entered into force in 2003. The ICRMW is still today only ratified by 51 states,²⁸ with neither Jordan nor Lebanon included on this list.²⁹ In fact, very few migrant-receiving states have ratified it, nor has a single EU country. The rationale behind the poor ratification record of the ICRMW has attracted some attention. Certain commentaries point out that the ICRMW reiterates rights that migrants would already be afforded, particularly in the Western democracies reluctant to ratify.³⁰ Despite the NYD's call for its ratification alongside "relevant ILO labour standards", we are yet to witness an increase in states signing up to the framework.³¹

Soft migration law

Numerous soft law frameworks related to migration exist. The 2030 Agenda of 2015 on Sustainable Development explicitly refers to migrants in four SDGs³², in sections 10c ("reduce the cost of remittances") and 10.7 ("facilitate orderly, safe, regular and responsible migration and mobility of people including through the implementation of planned, well managed migration policies"). The Nansen and MICIC initiatives are two other recent examples of non-binding guidelines accompanied by best practices to improve the protection of migrants, initiated by the governments of Switzerland/Norway and the US/Philippines respectively, in 2012 and 2013. Both highlight the prominence of climate change-induced displacement in response efforts to migrant protection: an area of forced migration outside of the 1951 Convention, but still more palatable to states. Against this backdrop, the convening of the GCM UN High Level Summit occurred at a time when migration governance was high on the political agenda, due to spikes in visible refugee and migrant flows such as those associated with the "European migration crisis".

26 Chamie, Joseph; Mirkin, Barry (2013) [Dodging International Migration at the United Nations](#), Health and Population, WORLDVIEWS, January 29 2013

27 OHCHR, [The Core International Human Rights Instruments and their Monitoring Bodies](#)

28 OHCHR (1990) [International Convention on the Rights of All Migrants Workers and Members of their Families](#), 18 December 1990

29 Ibáñez Prieto, Ana (2018) [Labour Ministry urged to implement 'clear standards' for expulsion of migrant workers](#), Jordan Times, 4 January 2018

30 Groningen Journal of International Law, vol 5(1): Migration and International Law, The Politics of the UN Convention on Migrant Workers' Rights, Antoine Pécoud

31 Starting in the mid-1980s, Regional Consultative Processes (RCPs) for dialogue and best practice sharing among states on migration grew in both number and scope. In parallel, so did the need for more coordinated migration governance, including within the framework of the UN. In 1999, the mandate of the OHCHR Special Rapporteur on the human rights of migrants, was created. The Global Commission on International Migration (GCIM) was subsequently established in 2003, following a recommendation in the 'Doyle report' of 2002. In 2006, the mandate of the Special Representative for the Secretary General (SRSG) on Migration was created. Furthermore, in follow up to the GCIM report, in 2006, the Global Migration Group (GMG) was established, mandated to ensure inter-agency coordination within the UN system. See <https://www.unitar.org/ny/sites/unitar.org/ny/files/WEJ%20FINAL.pdf>

32 UN (2017) [Goal 10- Reduce Inequality within and among Countries](#), Sustainable Development Goals (SDG)

Another core soft law framework that promotes migrant protection was published by OHCHR in 2015 in the form of principles and guidelines on human rights at international borders.³³ The framework reiterates existing rights and obligations and details recommendations for governments on the implementation of human rights-based border governance including training for border officials and establishing an obligation of states to protect, respect and fulfil human rights of all migrants at international borders; namely the primacy of human rights, non-discrimination, assistance and protection from harm.³⁴

Towards a Global Compact for Safe, Regular and Orderly Migration

The former Special Rapporteur on the Human Rights of Migrants proposed to make use of the GCM as a step towards a “2035 Agenda for facilitating human mobility”. Crépeau’s proposal advocates for a human rights and evidence-based governance framework for mobility, that moves past overly simplistic migration binaries, taking inspiration from the 2030 Agenda for Sustainable Development.³⁵ The proposal is based on SDG targets 10.7 and 8.8 and encompasses eight “modest and realistic” human mobility goals together with targets and indicators aimed at ensuring respect for the human rights of all migrants.³⁶ Much like the GMG principles and guidelines, the Agenda is based on the principles of equality and non-discrimination, with the aim of facilitating human mobility.

Similarly, the SRSG for International Migration has expressed a vision throughout the consultation phase that the GCM should be people-centered, anchored in fundamental human rights and should mark the beginning of a long-term strategy rooted in the 2030 Agenda for SDGs. Arbour has stressed that migration is happening first and foremost at the regional level, emphasising that global discussions must be increasingly grounded in regional specificities. Her wish list also includes enhanced cooperation on labour mobility, better information sharing and the opening up of legal migration pathways.³⁷ In this manner, the GMG guidelines represent one example of a broader push to institutionalise the concept of human rights protection for all people on the move, irrespective of migration status.

The Global Compact process presents a unique entry point for diverse segments of the migration sector to inform ordinarily often isolated, policy negotiations. Consultations, to varying degrees of success, have attempted to integrate civil society, media and migrant community voices, the ideal outcome of which being that the final framework is informed by actors at all levels. Collective civil society action throughout the process has been noteworthy, giving way to documents like the Ten Acts for the Global Compact.³⁸ The

33 OHCHR (2015) [Recommended Principles and Guidelines on Human Rights at International Borders](#)

34 Ibid.

35 UN Human Rights Council (2017) [Report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility](#), 28 April 2017, A/HRC/35/25

36 Proposed Goal 1. Offer regular, safe, accessible and affordable mobility solutions to all migrants, regardless of their status or skill level, Goal 2. Protect the labour and human rights of all migrant workers, regardless of their status and circumstances, Goal 3. Ensure respect for human rights at border controls, including return, readmission and post-return monitoring, and establish accountability mechanisms, Goal 4. End the use of detention as a border management and deterrence tool against migrants Goal 5. Provide effective access to justice for all migrants. Goal 6. Ensure easy access for all migrants to basic services, including education and health Goal 7. Protect all migrants from all forms of discrimination and violence, including racism, xenophobia, sexual and gender-based violence and hate speech. Goal 8. Increase the collection and analysis of disaggregated data on migration and mobility.

37 Arbour Louise, UN SRSG for International Migration (2017) [Closing remarks at the Inter-state Consultation Mechanisms on Migration and the Global Compact for Safe, Orderly and Regular Migration Closing Session: Reflections on the GCM Process, Contributions and Way Forward](#), Geneva, 11 October 2017

38 Migration and Development (MADE) Civil Society Network (2017) [Ten Acts for the Global Compact: A civil society vision for a transformative agenda for human mobility, migration and development](#), 3 November 2017

document details a wish list of priorities agreed upon by members of the Migration and Development (MADE) civil society network, advocating for their integration into the two global compact processes. Reflecting the human rights-oriented approach of both Crépeau and Arbour detailed above, the Ten Acts push for a re-orientation of the GCM towards a “Global Compact for Human Mobility and Migration”. In tandem with the GMG guidelines, it explicitly advocates for the development, and adoption of, principles and guidelines that cater to the protection needs of migrants in vulnerable situations, “en route, at borders and at destination, including due to state failure, generalized violence, armed conflicts, and the results of climate change and environmental degradation”.

Other joint advocacy initiatives borne out of the Compact process include the Initiative for Child Rights in the Global Compact, a network of 29 child-focused organisations pushing to maintain the primacy of child rights at the forefront of negotiations.³⁹ Held up as a cross-cutting issue relevant to both Compact processes by advocates for the rights of children of children on the move, ending immigration detention has been a point of contention on which to challenge states throughout the consultative process thus far. According to the UN CRC, children are protected from discrimination or punishment on the basis of the legal status of their parents, providing for their protection irrespective of regular or irregular presence in a country.⁴⁰ In this manner, this area of protection presents an opportunity for increased complementarity between the two Compact processes that remain at risk of silo-isation with at best narrow visibility on the rights of irregular migrants.



Children gather by a car to listen to the radio in an informal settlement for Syrian refugees in the Bekaa Valley, Lebanon. Photo: Sam Tarling/DRC, November 29, 2017.

³⁹ [Initiative for Child Rights in the Global Compact](#)

⁴⁰ UN OHCHR (1989) [Convention on the Rights of the Child](#), 20 November 1989



**INTERNATIONAL LAW
RELEVANT TO MIGRATION
AND HUMAN RIGHTS**

This section aims to provide a general overview of international law and soft law relevant to migrants. It will focus on rights related to returns and labour standards, in accordance with principles 6 and 14 of the GMG principles and guidelines supported by practical guidance on human rights protection for MIVs. This backdrop will provide the basis for further analysis of the two principles at the country level later in the study.

Defining the boundaries of International Migration Law: who is in and who is out?

International migration law (IML) spans a wide variety of fields: human rights, refugee, humanitarian, criminal and labour law. A state's sovereign authority to determine its own migration policies is circumscribed by such instruments, that include ratified international human rights, labour and customary law. Within the context of this research, this includes the obligation not to return anyone to a country in which the individual is at risk of persecution or torture (non-refoulement), to respect the right to seek asylum, the best interests of the child and the right to family life.

A common concern heard echoing throughout the GCM consultations was that the Compacts could prove iterative of existing principles or legislation. It is true that many legal instruments already outline the rights of migrants, from the global level to the grassroots.⁴¹ According to IHRL, the rights and free movement of migrants, just like everyone else within a state's jurisdiction, are protected.⁴² Nevertheless, a collective global framework on the basis of common principles for migration management remains lacking, a gap that the Compact processes are attempting to rectify.

Regular vs. Irregular

While there is no clear or universally accepted definition of irregular migration, the system that has impromptu taken shape as global migration management chiefly subdivides migrants into one of two categories: 'regular' or 'irregular'. Whilst acknowledging the lack of consensus on a definition, IOM encapsulates irregular movement as "entry, stay or work in a country without the necessary authorization or documents required under immigration regulations", from the perspective of migrant-receiving states.⁴³ UNDP similarly characterises "irregular migrants" as those "without documentation".⁴⁴ As a general rule, 'regularity' is ascribed by the legal interpretation of a person's presence within a host country, according to the state's immigration regulations. This legal situation directly affects the rights a person is able to access within the country in question.

Notwithstanding, neither category is permanently fixed according to the way in which a migrant enters a country's territory. It may seem evident that unlawful entry into a state leads to irregular status, and the contrary to one of regularity. Yet the lines are less clear cut,

41 That being said, holes in this web of IHRL for migrants do exist: Article 25 of the ICCPR only reserves the rights of "citizens" to vote and take part in public affairs. Similarly, Article 12 grants the right to freedom of movement for foreigners, but stops at those "lawfully present" in a country. Regardless, all migrants may enjoy protection under the ICCPR under certain circumstances, including in relation to entry and residence, when issues of discrimination, inhumane treatment and respect for family life arise.

42 For one, the UDHR (Article 13) states that everyone has the right to freedom of movement/residence and to leave any country, including their own. It also maintains the right of individuals to return to their own country. The International Covenant on Civil and Political Rights (ICCPR) and the International Convention on Economic Social and Cultural Rights (ICESCR) both prohibit "national origin" as grounds for discrimination in the enjoyment of civil, political economic, social and cultural rights. These conventions uphold that difference in treatment between citizens and non-citizens must be enshrined in national legislation and serve a legitimate objective.

43 IOM (2017) Key Migration Terms, [Irregular Migration](#)

44 United Nations Development Programme (UNDP) (2010) [Mobility and Migration: A Guidance Note for Human Development Report Teams](#), November 2010

or fixed, but rather of a more fluctuating and fragmented nature. Lawful entry into a state does not necessarily protect a migrant from irregularity. migrant workers, for example, may still end up in an irregular situation when switching employers for their own protection or overstaying a visa limit, in so doing violating administrative domestic law. In the same way, an irregular migrant without access to international protection may have the opportunity to regularise her/his situation according to the country's domestic policy.

'Mixed flows', as they have come to be characterised, provide recognition of the fact that migration journeys are not as linear, direct or singular as once perceived.⁴⁵ The GMG principles and guidelines acknowledge that there is yet to be a consensus on how 'mixed migration' is defined across states, agencies and within public discourse. In the meantime, it adheres to a definition found in a report published by the Human Rights Council of OHCHR that explains it as

"the cross-border movement of people who have a variety of protection profiles, reasons for moving and needs, but who move along the same routes, use the same forms of transport or means of travel, and often travel irregularly."⁴⁶

The Mixed Migration Centre defines "mixed migration" as referring to "cross-border movements of people including refugees who flee persecution and conflict, victims of trafficking and people seeking better lives and opportunities. Motivated to move by a multiplicity of factors, people in mixed flows have different legal statuses as well as a variety of vulnerabilities. Although entitled to protection under International Human Rights Law, they are exposed to multiple rights violations along their journey. Those in mixed migration flows travel along similar routes, using similar means of travel - often travelling irregularly and wholly or partially assisted by migrant smugglers.

It can never be emphasised enough that the majority of the world's migration takes place in a regular, and by and large orderly, manner.⁴⁷ The irregular means by which individuals are compelled to travel for mixed motivations, however, continue to endanger the lives of hundreds of thousands of human beings, obfuscate effective collection of evidence and stoke the fires of anti-immigration rhetoric in an increasingly restrictive mobility environment along the Eastern and Central Mediterranean routes. Greater clarity of nuance is required when looking at the protection of all migrants, whether in vulnerable situations, asylum seeking, refugees, migrant workers or otherwise.

How we came to understand migrant vulnerability

There is no universally agreed-upon definition of migrant vulnerability. Migrant vulnerability as per the GMG draft principles and guidelines on human rights protection for MIVs is defined as "a range of often intersecting factors which can co-exist simultaneously, influencing and exacerbating each other". These factors may be related to drivers of migration in the country of origin, occurring in transit and/or be related to an individual's particular circumstances, meaning that it can be understood as situational/external and/or embodied (internal).⁴⁸ UNHCR, on the other hand, divides migrant vulnerability into two camps of analysis:

45 Dolan, Rob (2017) [Mixed meaning: the challenges of language and definition in mixed migration work](#), Mixed Migration Platform blog, June 2017; Mixed Migration Hub (mHub) (2017) [What is mixed migration?](#)

46 Human Rights Council, Office for the High Commissioner for Human Rights (OHCHR) (2016) [Report of the Office of the United Nations High Commissioner for Human Rights on the Situation of Migrants in Transit](#), A/HRC/31/35, 27 January 2016, para. 10.

47 SRSG on International Migration (2017) Opening Remarks at the Regional Consultations on Migration in the Arab Region, United Nations Economic and Social Commission for Western Asia (ESCWA) Office, Beirut, Lebanon, 26 September 2017

48 GMG (2017) [Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations](#), October 2017

'situational' and 'individual'. According to this position, situational vulnerability is provoked by risks that arise en route (smuggling, trafficking, corrupt border officials, hazardous desert/boat crossings/absence of family support/discrimination/lack of language skills), whereas individual vulnerability is informed by a person's characteristics and circumstances (unaccompanied and separated children (UASC), the elderly, those with disabilities or serious medical needs, traumatised survivors of trafficking/torture). UNHCR otherwise stressed the need to maintain the distinction between specific needs that migrants or any person on the move may have due to situations of vulnerability and international protection.

Protection of migrants in irregular situations has, until recently, been most commonly confined to, or rather conflated with, the exclusive protection of trafficked populations.⁴⁹ With the increase in irregular, cross border migration since the 1980s, bilateral and multilateral instruments combating trafficking and smuggling have furthermore proliferated.⁵⁰ From the state perspective, these migration flows represent the more acceptable face of human rights protection for those other than regular migrants and asylum seekers or refugees. Human rights assistance to survivors of trafficking forms an inherent component of state efforts to target criminal networks of smugglers and traffickers, thereby satisfying migration control objectives in the process. IOM have made notable strides in formalising global response to 'vulnerable migrants'. Taking root in their Counter-Trafficking and Assistance to Vulnerable Migrants (AVM) schemes in 1994, the parlance around migrants and vulnerability has evolved from that of identification of migrants 'at risk' of exploitation or trafficking to a preventative approach, encompassing individuals that may become vulnerable for a plethora of other reasons while on the move. With the rebirth of IOM's Counter-Trafficking Unit as the Vulnerable Migrants Unit, the need to extrapolate upon 'migrant vulnerability' became fundamental. IOM subsequently established a model for identifying migrant vulnerability, designed to assess potentially "at risk" individuals, families, groups and migration affected communities. This approach takes the individual, as opposed to their legal category, as the starting point.⁵¹

Migrant-receiving countries continue to grapple with the identification and separation of those irregular migrants considered 'worthy of entry' to their territory (asylum seekers) via irregular routes and the remainder (those liable to penal measures for violation of entry regulations). Frontex have been critiqued for collectively representing border crossing data that includes prospective asylum seekers as movement of 'irregular migrants' or 'unauthorised border crossings'.⁵² These figures do not account for the paradoxical requirement that an asylum seeker must make an 'illegal' border crossing in order to claim refuge in a refugee-receiving state. Further, in relation to the European context, Frontex openly admitted to double counting the number of irregular migrants entering Europe on a monthly basis.⁵³ The agency confirmed they do indeed measure the entry of irregular migrants (including rejected asylum seekers) into Europe, every time the same individual crosses the border of a European state, indicating that figures produced during the peak of arrivals along the eastern Mediterranean route in 2015 were grossly overblown. This lack of data clarity is just one example that serves to illustrate the nascent nature of engagement with irregular migration management by states outside of the securitised narrative.

49 MMP (2017) [Trafficking in mixed migration flows Exploitation of refugees and other migrants in the Middle East and Europe](#), May 2017

50 The UN Convention against Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (UN Trafficking Protocol) and the Protocol against Smuggling of Migrants by Land, Sea and Air aim at combating trafficking and smuggling whilst ensuring the protection and assistance to the victims thereof. The 2015 Common Action Plan against Migrant Smuggling also represents a key strategic development in Europe.

51 According to this model, vulnerability within the migration context is examined through the lens of individual, household, community, situational and structural factors that influence an individual's capacity to resist, cope with, or recover from violence, exploitation, abuse, and/or violation(s) of rights. Komenda, Heather (2017) Personal correspondence with IOM programme manager, Global Action Against Trafficking and Smuggling, Assistance to Vulnerable Migrants Unit, Migrant Assistance Division, 26 October 2017

52 Crawley, Heaven (2017) [Tweet](#)

53 Sigona, Nando (2015) [Seeing double? How the EU miscounts migrants arriving at its borders](#), 15 October 2015



GMG PRINCIPLES

The draft GMG principles (and corresponding guidelines) of relevance to the context of Jordan and Lebanon within the scope of this study are listed below, the essence of which has been summarised in overall headings, based on the legal content or general intention of the guideline.⁵⁴

Principle 6: Ensure that all returns fully respect the human rights of migrants and comply with international law

- Guideline 1: Non-refoulement
- Guideline 2: Arbitrary/collective expulsions
- Guideline 3: Fully-informed consent
- Guideline 4: Choice of location of return; protection from confiscation of travel documents
- Guideline 5: Conditions of return procedure
- Guideline 6: Best Interests of the Child
- Guideline 7: Family separation
- Guideline 8: Conditions upon/sustainability of return
- Guideline 9: Rights monitoring mechanisms
- Guideline 10: Alternatives for those who cannot return
- Guideline 11: OHCHR Recommended Principles and Guidelines on Human Rights at International Borders

Principle 14: Guarantee the right of migrants to work, in just and favourable conditions

- Guideline 1: Just and favourable working conditions
- Guideline 2: Non-discrimination (wages, workplace rights, trade union rights, recognition of skills and qualifications, social protection; on basis of family status, marital status, legal partnership status or pregnancy)
- Guideline 3: Labour inspections
- Guideline 4: Complaint mechanisms and judicial remedies
- Guideline 5: Exploitative recruitment

The country-level findings do not seek to cover all guidelines within both of these principles, but instead focus on particular areas of relevance according to local contextual challenges. This will be indicated throughout.

⁵⁴ GMG (2017) [Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations](#), October 2017



CASE STUDIES

Lebanon, Jordan and Syria have hosted the largest shares of Palestinian refugees since 1948, outside the Occupied Palestinian Territories (oPT). Moreover, Lebanon and Jordan, together with Turkey, host the largest proportions of Syrian refugees since the outbreak of the Syrian conflict. The 2016 London Conference on Supporting Syria and the Region, co-hosted by UK, Kuwait, Norway and the UN resulted in different prospective agreements with Jordan (referred to as the “Compact”)⁵⁵, Lebanon⁵⁶ and Turkey⁵⁷. These prospective financial agreements, brokered by the World Bank, form the basis for international cooperation on refugee management in these three states, through initiatives including labour market development for refugees and nationals, host community support and concessional investment in infrastructure and public services.

JORDAN

Jordanian migration and labour context

The Jordanian population is estimated to be above 9 million people.⁵⁸ Of this total, approximately 2.1 million are Palestinian refugees, many with Jordanian citizenship.⁵⁹ The most recent available data states that 17,000 Palestine refugees from Syria (PRS) are registered with UNRWA in Jordan, whilst 746,003 refugees of other countries of origin were registered with UNHCR as of April 2018.⁶⁰ Of those registered with the UNHCR at this time, 661,859 were Syrians, 66,624 Iraqis, 10,972 Yemenis, 4114 Sudanese, 811 Somalis and 1,623 described as ‘Other’.⁶¹ Labour migration of mainly high-skilled migrant workers from Jordan to the Gulf States increased in the 1970s and today, around 700,000 to 800,000 Jordanians are estimated to have migrated abroad.⁶² The Jordanian Ministry of Labour (MoL) estimates that approximately 425,000 Jordanians, among those the country’s best educated, are currently working in the Gulf States.⁶³ The significance of financial contributions made by Jordanian migrant workers is demonstrated by the estimated 1.168 billion USD of remittances recorded during the first half of 2017, an increase of 2.4% compared to the previous year.⁶⁴ Low-skilled labour migration towards Jordan, mainly Egyptian and Southeast Asian (Sri Lanka, Bangladesh, the Philippines and Indonesia), similarly took off in the 1970s. At this time, the domestic worker sector, consisting almost solely of migrant female labourers, also expanded.

The Jordanian labour market today contains approximately 1.4 million Jordanians, while an estimated 210,000 are unemployed.⁶⁵ An ILO study from 2017 points out that, as the Jordanian labour market is profoundly impacted by the presence of large numbers of non-Jordanians, employment and working conditions of nationals can only be understood in the

- 55 Supporting Syria and the Region (2016) [Final: The Jordan Compact: A New Holistic Approach between the Hashemite Kingdom of Jordan and the International Community to deal with the Syrian Refugee Crisis](#), 4 February 2016
- 56 Supporting Syria and the Region (2016) Final: [London Conference – Lebanon Statement of Intent, Presented by the Republic of Lebanon](#), 4 February 2016
- 57 Supporting Syria and the Region (2016) Final: [London Conference – Turkey Statement](#), 4 February 2016
- 58 World Bank (2017) [Jordan Population Data](#)
- 59 UNRWA (2017) [Where We Work: Jordan](#)
- 60 UNRWA (2018) [Syria Crisis](#); UNHCR (2018) Syria <http://data2.unhcr.org/en/situations/syria/location/36> Refugee Response Portal – Inter-agency Information Sharing Portal - Jordan, April 2018
- 61 UNHCR (2018) [Syria Refugee Response Portal – Inter-agency Information Sharing Portal - Jordan](#), April 2018;
- 62 De Bel-Air, Françoise (2016) [Migration Profile: Jordan](#), Migration Policy Centre, Robert Schuman Centre, European University Institute (EUI), November 2016
- 63 Stave, Svein Erik; Hillesund, Solveig (2015) [Impact of Syrian refugees on the Jordanian labour market](#). Among Jordanian emigrants, 55% have a university education or higher and 82% have secondary education or higher. Economic Research Forum; Government of the Hashemite Kingdom of Jordan (2010) [Jordan - Labor Market Panel Survey, JLMPS 2010](#)
- 64 Jordan Times (2017) [Jordanian expat remittances reach \\$1.168b in first third of 2017](#), 31 May 2017
- 65 Razzaz, Susan (2017) [A challenging market becomes more challenging: Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market](#)

broader labour market context, including migrant workers and Syrian refugees.⁶⁶ Data on the number of migrant workers in Jordan differs depending on the source, but the MoL has estimated that up to 1.5 million non-Jordanians may be working, reportedly filling half of the new jobs created annually and outnumbering Jordanians in the workforce.⁶⁷ Labour migration from Egypt towards Jordan has notably slowed down over the past five years due to policy shifts such as the 2016 Jordan Compact and a recruitment ban on new guest workers (mostly applying from Egypt) within the agricultural sector in order to observe and “regulate the market” (lifted in October 2017).⁶⁸ Nevertheless, a significant number of Egyptian migrants in Jordan have been affected by the interplay of segmented labour market development to the benefit of Syrian refugees and its effects on those already working in the country.

Migrant workers that remain in Jordan are primarily employed in agriculture, construction, garment, tourism and domestic work. Within the private sector, many occupations have become dominated by specific nationalities of migrant workers, despite no apparent skills basis for this segmentation at the country level. Notably, the informal sector continues to comprise an important share of the economy.⁶⁹ Recent figures from the Ministry of Labour indicate that as many as 800,000 migrants are working in the country without permits, compared to the less than half (between 312,000 and 351,000) that have the documentation required by law.⁷⁰ In an effort to reduce instances of irregular work, the government announced an extended grace period on 4 February 2018 to encourage undocumented migrant workers to regularise their status through employers.⁷¹ Controversially, this regulation also offers a 60% exemption on fees and fines for employers of informal migrants willing to leave Jordan, underlining decreasing levels of tolerance towards foreign workers.

Other important policy changes include eligibility for work permits for persons having entered Jordan irregularly, reducing the cost of permits for Syrian refugees but also reducing opportunities for recruitment of new migrant workers from outside Jordan.⁷² Critics have outlined that the provision of work permits is not necessarily a comprehensive measure of employment or decent working conditions, but moreover a first step towards formalised employment. 87,141 of these had reportedly been issued by January 2018.⁷³ The Jordan Compact has also given way to unprecedented developments in labour policy usually regulated by the Kefala sponsorship system⁷⁴, a model by which a foreign worker’s

66 Ibid.

67 ILO (2017) [The ILO in Jordan – Jordan – Migrant Workers](#)

68 Jordan Times (2017) [Recruitment of foreign workers in agricultural sector resumes](#), 31 October 2017; At the 2016 London conference, the international community pledged grants and concessional financing to support the Jordan Compact. The EU committed to enhance Jordanian access to the EU market in return for the Government of Jordan (GoJ) providing work permits for Syrian refugees with the targets of 50,000 job opportunities by the end of 2016, rising to 200,000 thereafter. The GoJ and the EU have agreed to relax the Rules of Origin for 50 product lines produced within special economic zones (SEZs) on the condition they include 15% Syrian refugee labour in the first two years and 25% thereafter. Upon fulfilment of the pledged 200,000 Syrian job opportunities, the agreement will be expanded upon to include goods produced elsewhere in the country. In addition, the GoJ has reached an agreement with the World Bank whereby it will receive \$300 million upon achievement of a series of targets, including the aforementioned work permit quota for Syrian refugees.

69 Razzaz, Susan (2017) [A challenging market becomes more challenging: Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market](#)

70 Jordan Times (2017) [800,000 guest workers do not have permits – Minister](#), 5 November 2017

71 Jordan Times (2018) [Grace period for illegal workers to rectify status extended](#), 1 February 2018

72 An alternative mechanism by which workers in the agriculture sector may obtain work permits is by utilising a cooperative of farmers as sponsor, to allow workers to shift in-between temporary jobs. ILO (2017) [Work permits and employment of Syrian refugees in Jordan: towards formalising the work of Syrian refugees](#), 28 June 2017. Another example of initiatives aimed at improving labour integration of Syrian refugees includes allowing refugees to leave camps for the purposes of employment (prohibited until now), providing individuals with one-month leave permits upon registering their work permits at a designated job centre in Zaatar camp. ILO (2017) [Jordan’s first job centre for Syrian refugees opens in Zaatar camp](#), 21 August 2017

73 Jordan Ministry of Labour, Syrian Refugee Unit (2018) [Syrian Refugee Unit Work Permit Progress Report, January 2018](#), 12 February 2018

74 ILO (2017) [Employer-Migrant Worker Relationships in the Middle East: Exploring scope for internal labour market mobility and fair migration](#), 4 May 2017

legal status in a country is linked to their employer-sponsor (or “Kafeel”), although these benefits remain exclusively reserved for Syrians. For instance, the Government of Jordan (GoJ) recently issued the first non-employer and non-position specific work permits to Syrians within the construction sector.⁷⁵ Nevertheless, the isolation of such labour policy development from non-Syrian migrant workers could be a missed opportunity for the improvement of working conditions of all foreign workers in the country. Similar privileges applied without discrimination to all migrants could arguably lay the foundations for the abolition of the Kefala system itself, until which point amendments to labour regulations will still function within the Kefala framework.

The domestic legal context for migrants and adherence to international treaties

Jordan is not party to the 1951 Refugee Convention, but in 1998 signed a Memorandum of Understanding (MoU) with the UNHCR.⁷⁶ It replicates the refugee definition of the 1951 Refugee Convention and, through this, the GoJ has committed to respecting the principles of non-refoulement, non-discrimination and the right to work.⁷⁷ Through the 2004 Arab Charter of Human Rights, Jordan has also committed to respecting several rights corresponding to those of the 1951 Refugee Convention, including freedom of movement, freedom from arbitrary detention and access to courts. Jordan is moreover obligated to respect variations of the principle of non-refoulement through the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)⁷⁸ and the International Covenant on Civil and Political Rights (ICCPR).⁷⁹

UNHCR is, in theory, obligated to find durable solutions for ‘mandate refugees’⁸⁰ within six months of entry into Jordan.⁸¹ Within this framework, asylum seekers in Jordan only become ‘Convention refugees’ upon resettlement to a third country.⁸² As for Palestinian refugees in Jordan, UNRWA is responsible for their registration.⁸³ In case the Palestinian is already registered in Syria, the person is recorded but not re-registered by UNRWA (in order to safeguard the rights of the persons to return to Syria). Returns of Palestinians to Syria have occurred both before and after the GoJ admission ban of 2013, but protection concerns arising out of this situation fall outside the scope of this research.

“Foreigners” or “guests” in Jordan are identified as all “those who do not possess Jordanian nationality”.⁸⁴ The Ministry of Interior (MoI) presides over the management of their entry and the conditions of such, into the country.⁸⁵ According to this legislation, there are various ways

75 ILO (2017) [Jordan issues first-of-its-kind work permits to Syria refugees in the Arab region](#), 10 August 2017

76 Government of the Hashemite Kingdom of Jordan; UNHCR (1998) [Memorandum of Understanding between the Government of the H.K. of Jordan and the UNHCR](#), 5 April 1998

77 ARDD Legal Aid (2012) [Refugee Laws and the Sovereignty of the State](#), 1 January 2012

78 A/RES/39/46 (10 Dec 1984)

79 League of Arab States (LAS) (1994) [Arab Charter of Human Rights](#), 15 September 1994; United Nations Human Rights Office of the High Commissioner (OHCHR) (1966) [International Covenant on Civil and Political Rights \(ICCPR\)](#) and Article 2(2) OHCHR (1966) [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#), 16 December 1966

80 Canadian Association for Refugee and Forced Migration Studies (CARFMS) Online Research and Teaching Tools (ORTT) (2017) [Glossary of Terms - Mandate Refugees](#)

81 UNHCR (2014) [UNHCR Global Appeal 2014-2015: Jordan](#)

82 UNHCR (2013) [Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: JORDAN](#), November 2013

83 A Palestinian refugee is a person whose “normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict”, later expanded to include also those displaced by the 1967 conflict. UNRWA (2017) [Palestine Refugees](#)

84 Government of the Hashemite Kingdom of Jordan (1973) [Jordanian Law No. 24 of 1973 on Residence and Foreigners' Affairs](#), 1 January 1973

85 Ibid.

in which migrants can become irregular.⁸⁶ For instance, a general rule prohibits Jordanian nationals or enterprises from employing a “foreigner” unless the person has a residence permit. As previously mentioned, residence permits are dependent on the worker-employer relationship as per the Kefala⁸⁷ system, and only as long as his/her activities are not in competition with those of Jordanians.⁸⁸ Should an individual decide to work informally, for multiple employers or change positions contrary to their contract, they will be in violation of national law and risk irregularity. On this backdrop, the Ministry of Interior (MoI) has the ultimate power to determine when a “foreigner” (whether migrant/asylum seeker/mandate refugee) may be expelled from the country, on a case by case basis, most often without access to litigation to contest the decision, through the 1973 Law on Residence and Foreign Affairs.⁸⁹ A recent circular issued by the Ministry of Labour has been criticised by migrant rights organisations in Jordan for preventing migrant workers from cancelling their work permits prior to the end of their contract date, punishable by detention and expulsion as deemed necessary by the Directorate of Residency and Borders.⁹⁰

Regarding migrant worker rights, Jordan has ratified 24 ILO Conventions, including seven out of eight core Conventions, since joining the ILO in 1956.⁹¹

According to Article 12 of the Jordanian Labour Law, non-Jordanian workers may be employed, either by approval of the Minister or delegated authority, provided the work entails experience and qualifications not available among Jordanian workers. As per the latest MoL decision, the so-called Closed Professions List includes sales, drivers, guards, office boys and clerical occupations (meaning these professions may only be filled by Jordanian citizens).⁹² The percentage of jobs open to Syrians and other foreign nationals per economic sector is similarly regulated by this MoL decision, arguably contributing to a growth in irregular work by non-Jordanians left with scarce other options.⁹³ Despite the restricted access for asylum seekers and refugees to particular labour sectors the aforementioned closed profession list indicates, Syrian migrant workers historically migrated to Jordan via a bilateral workforce cooperation agreement between the two countries prior to the onset of the conflict.⁹⁴ As previously mentioned, the characteristically low ratification rates of the ICRMW are no different in the Middle East, where Jordan has still to ratify.⁹⁵

- 86 With regards to admission, ‘foreigners’, with certain exceptions, are required to report to a competent Jordanian authority and specify the reasons for presence and duration of stay, with 3 days of their arrival. Government of the Hashemite Kingdom of Jordan (1973) [Jordanian Law No. 24 of 1973 on Residence and Foreigners’ Affairs](#), 1 January 1973
- 87 ILO (2017) [Employer-Migrant Worker Relationships in the Middle East: Exploring scope for internal labour market mobility and fair migration](#), 4 May 2017
- 88 A certificate to that effect is issued by the Ministry of Labour and Social Affairs. Article 26 (a), Government of the Hashemite Kingdom of Jordan (1973) [Jordanian Law No. 24 of 1973 on Residence and Foreigners’ Affairs](#), 1 January 1973
- 89 Article 37, Government of the Hashemite Kingdom of Jordan (1973) [Jordanian Law No. 24 of 1973 on Residence and Foreigners’ Affairs](#), 1 January 1973
- 90 Ibáñez Prieto, Ana (2018) [Labour Ministry urged to implement ‘clear standards’ for expulsion of migrant workers](#), Jordan Times, 4 January 2018
- 91 No 29 Forced Labour Convention (1930), No 98 Right to Organise Collective Bargaining (1949), No 100 Equal Remuneration Convention (1951), No 105 Abolition of Forced Labour Convention (1957), No 111 Discrimination Convention (1958), No 138 Minimum Age Convention (1973), No 182 Worst Forms of Child Labour Convention (1999). It has not ratified ILO Convention no. 87 (Freedom of Association and Protection of the Right to Organise). Nor is Jordan a party to the ICRMW. However, Jordan is a state party to the major international human rights treaties such as CAT, the ICCPR (protecting freedom of movement and the right to liberty and security), CERD, ICESCR and CEDAW.
- 92 Jordanian Ministry of Labour (MoL) (2016) [Ministerial Decision: Closed Professions List](#), October 2016
- 93 ILO Regional Office for Arab States (2015) [Access to work for Syrian refugees in Jordan: A discussion paper on labour and refugee laws and policies](#), 30 March 2015; Tamkeen Fields for Aid (2017) [Walled in by Alienation: Working and Living Conditions of Migrant Workers in Jordan](#), 6 March 2017
- 94 Government of the Hashemite Kingdom of Jordan; Government of the Syrian Arab Republic (2001) [Agreement on Workforce Cooperation between the Government of the Hashemite Kingdom of Jordan and the Government of the Syrian Arab Republic](#), 8 October 2001
- 95 Azzeh, Laila (2017) [Gov’t urged to endorse convention on protection of migrant workers](#), The Jordan Times, 3 March 2017

Findings

This section gives an overview of the major findings from the field research in three distinct but related domains: awareness of and perception of the GMG principles, major protection concerns in relation to Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law) and Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions). The findings seek to summarise the priority areas cited by stakeholders interviewed in relation to the principles, excluding commentary on some human rights standards from the scope of this research. For further detail, recent reports have provided impactful analysis on areas not covered.⁹⁶

Awareness and perception of the GMG principles

All who were interviewed stressed the need for greater awareness and implementation of existing provisions for the protection of migrants as per both domestic and international law. Awareness raising with employers and migrant workers themselves on obligations and rights as per domestic law was considered particularly important in the domestic work and agricultural sectors. Several interviewees also advocated for the ratification by Jordan of the ICRMW and/or particular ILO conventions. Despite research corresponding with the GCM thematic consultations, there was no awareness among interviewees at all of the GMG principles on human rights protection for MIVs, nor of any link between these principles and the GCM or the NYD. In general terms, a soft law framework aimed at protecting migrants in vulnerable situations was met with relative indifference at the domestic level. Few interviewees stated that they would normally even refer to provisions of international ('hard law') instruments when advocating with national authorities or others for the protection of vulnerable migrants. A lack of coordination between humanitarian and development actors in the field of migration and labour/livelihoods was also repeatedly cited as a concern.

Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law)

During the course of this study, concerns regarding returns and readmissions were raised from a procedural perspective, including potential cases of refoulement (Principle 6, Guideline 1) collective expulsion (Guideline 2) without access to due legal process (Guideline 3), confiscation of nationality or travel documents (Guideline 4) and arbitrary detention prior to expulsion (Guideline 5). Although outside the scope of this study, previous fieldwork conducted by INTERSOS revealed the treatment of children as adults in legal terms when found to be in violation of labour regulations, in some cases resulting in deportation and family separation (Guidelines 6,7). These returns have occurred to conflict-affected or economically unstable areas (Guideline 8), with a level of obstruction to human rights actors in monitoring events (Guideline 9) and holding duty bearers publicly accountable.

A side effect of the efforts to increase employment and assistance among Syrians has been an increase in deportations of Egyptians, sometimes after prolonged periods of administrative detention.⁹⁷ Another instance of this domino effect is the deportation of a group of six to eight

96 Better Work Jordan (2017) [Better Work Jordan Annual Report 2017: An Industry and Compliance Review](#), February 2017; Tamkeen Fields for Aid (2017) [Walled in by Alienation: Working and Living Conditions of Migrant Workers in Jordan](#), 6 March 2017; Tamkeen Fields for Legal Aid (2012) [Addressing Migrant Workers in Jordan: The Legal Framework to Protect Migrant Workers](#); Tamkeen (2012) [Between a Rock and a Hard Place: Migrant Workers Caught Between Employers' Abuse and Poor Implementation of the Law](#)

97 Ellouk, Bernard (2017) [One man's curse is another man's blessing: How Egyptian guest labour suffers from Syria crisis](#), Jordan Times, 23 August 2017

hundred Sudanese refugees forcibly returned to Khartoum in December of 2015.⁹⁸ Critique around this time was also directed towards UNHCR for alleged discrimination in support provision against non-Syrian and non-Iraqi refugees, further underscoring the segmentation of assistance towards specific nationalities.⁹⁹ At the beginning of October 2017, Human Rights Watch released a report alleging systematic collective expulsions of Syrians by the GoJ without adequate information or opportunity to challenge their returns or seek assistance from the UNHCR.¹⁰⁰

Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions)

NON-DISCRIMINATION

GMG Principle 14, Guideline 1 outlines the responsibility of states to prevent discrimination within the labour sector. Earmarked donor funding was identified by several of those interviewed as not only exacerbating discriminatory practices between foreign nationals of differing legal statuses, but also leading to discrimination in treatment amongst migrants of different nationalities.

Regarding conformity between Jordanian labour policy and areas outlined in Principle 14, stakeholders highlighted shortcomings in Jordanian labour law implementation for domestic workers, the lack of a regulatory framework for agricultural workers and weak governmental monitoring and oversight of both sectors as prominent gaps. In 2008, an amendment to Article 3 of the Labour Law extended it to include protection for agricultural and domestic workers, supplemented by further regulations for domestic workers in 2009, 2011 and 2013.¹⁰¹ To date, however, no corresponding regulations have been issued specific to the vulnerabilities of agricultural workers.

Reiterating the importance of non-discrimination, Guideline 2 specifies that migrants should be treated on par with national workers in relation to income. In Jordan, migrant workers typically populate the sectors where Jordanians are absent, most often lower-income level sectors such as construction, agriculture and domestic work. According to stakeholders, the most frequently reported concern among migrant workers in comparison to citizens regards wages: specifically, low or delayed payment of wages and long/excessive working hours with no remuneration for overtime. Despite an increase for nationals in 2017 from 190 JOD to 220 JOD per month, the minimum wage determined by Jordanian Labour Law remains considerably lower (up to half of the Jordanian tier) for migrant workers.¹⁰² This differentiation directly violates both the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on Economic Social and Cultural Rights (ICESCR) Convention concerning Discrimination in Respect of Employment and Occupation, to which

98 Tiber (2017) [After the deportations: how Jordan left Sudanese refugees to death and separation](#), 19 September 2017; BBC News (2015) [Jordan departs hundreds of Sudanese asylum seekers](#), 18 December 2015; Pizzi, Michael; Williams, Aaron (2015) [Jordan deporting 800 refugees back to Sudan after protest](#), Al Jazeera America, 18 December 2015

99 Lucente, Adam (2015) [Is UNHCR in Jordan discriminating against Sudanese refugees?](#), Al Monitor, 2 December 2015

100 Human Rights Watch (HRW) (2017) ["I Have No Idea Why They Sent Us Back": Jordanian Deportations and Expulsions of Syrian Refugees](#), 2 October 2017

101 Since 2009, regulation No 90 of Domestic Workers, Cooks, Gardeners and Similar Categories covers domestic workers and a number of follow up regulations (2013) have made an attempt to regularise their situation. Government of the Hashemite Kingdom of Jordan (2013) [Regulation No. 11 of 2013 amending Regulation No. 11 of 2009 concerning Domestic Workers, Cooks, Gardeners and Similar Categories](#), 14 February 2013; Government of Jordan (2009) [Regulation No.90/2009 concerning Domestic Workers, Cooks, Gardeners and Similar Categories](#), 1 October 2009; Government of the Hashemite Kingdom of Jordan (2008) [Law No. 48 amending the Labour Code](#), 15 August 2008

102 Malkawi, Khetam (2017) ["Raising minimum wage a positive step, but disproportionate to rise in prices"](#), 9 February 2017; Nahhas, Roufan (2017) [Controversy in Jordan over its two-tier minimum wage system](#), *The Arab Weekly*, 26 February 2017

Jordan is a signatory.¹⁰³ Any payment below the minimum wage unjustified by exceptions to the Labour Code is penalised and prosecuted by the Remuneration Authority.¹⁰⁴ Even so, given the large informal share of the economy, and the adverse effect of comparatively lower salaries on increased demand for migrant versus Jordanian labour, many workers do not benefit from such provisions. Additionally, work permit fees for both employees and employer-sponsors change frequently and differ both according to economic sector and nationality, creating further discrepancy and discrimination across different groups.¹⁰⁵

Another important distinction among workers, both national and foreign, and within the migrant worker community itself, is for those employed in the domestic sector for which a general minimum wage is not set. In practice, this almost exclusively affects migrant female workers given that this demographic dominates the sector. Wages for domestic workers are instead bilaterally negotiated between the GoJ and the relevant embassy of country of origin. To illustrate, while there is reportedly no official agreement dictating salaries between the GoJ and the Bangladeshi embassy, the minimum wage for a Filipino domestic worker is currently at 400 USD per month.¹⁰⁶

As regards social protection, the application of social security to the agricultural and domestic work sectors was a frequently reported concern. The 2014 Social Security Law obliges social security coverage of all workers regardless of nationality, occupation and type of contract.¹⁰⁷ According to discussions with stakeholders, the degree to which agricultural and domestic workers are covered by this law appears unclear. Findings revealed that decisions taken by a civil labour judge on inclusion of domestic workers under the social security law have been rejected by the Appeals Court on the basis that domestic workers are not specifically mentioned in the labour code. For migrants in other economic sectors, the law has likewise been reportedly difficult to enforce.

TRADE UNION RIGHTS

The right to association and collective bargaining is considered a fundamental right within international labour standards that form the basis for Guideline 2 of GMG Principle 14.¹⁰⁸ According to a Free Trade Agreement (FTA) signed between America and Jordan covering the country's Qualified Industrial Zones (QIZ)¹⁰⁹, migrant workers employed in these fields are entitled to collective bargaining and the right to organise there (though consistent implementation of all elements of the Collective Bargaining Agreement is reportedly

103 ILO (1958) [C111 - Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#), 25 June 1958; OHCHR (1966) [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), 16 December 1966

104 Sanctions for employers paying below minimum wage are provided for. Employers are only allowed to make deductions from wages in specified circumstances such as for the cost of the worker's housing. These are detailed in Section 47, Chapter 7 of the Jordanian Labour Code. Government of the Hashemite Kingdom of Jordan (1996) [Labour Code, Law No. 8 of 1996](#), 2nd March 1996

105 The most recently issued fee schedule sets the basic work permit fee at JOD 500 for guest workers, following a move by the MoL to standardise the cost for all migrant workers. Jordan Times (2017) [Work permits for all guest workers to cost JD500 under new by-law](#), 1 February 2017

106 West Asia and North Africa (WANA) Institute (2014) [The Status of Legal Empowerment in Jordan Evidence to support the post-2015 development agenda](#); Department of Labor and Employment, Republic of Philippines (2012) [Jordan-Philippines signs protocol to regulate HSWs' employment](#), 30 January 2012

107 This is defined to cover those working less than 16 days in a given month. Government of the Hashemite Kingdom of Jordan (2001) [The Social Security Law \(No. 19 of 2001\)](#), 1 May 2001

108 ILO (1949) C098 – [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#), 1 July 1949

109 The QIZs are areas of Jordan that are regulated by an agreement linked to Free Trade Agreements (FTA) established with other countries, including the United States of America (USA), Israel, Canada, Singapore and Turkey. The Agreement facilitates, for instance, duty-free product exports and exemption from customs tariffs from the designated zones. The majority of the garment manufacturing industry is located within 14 of these zones and represents 17% of the country's total exports, an estimated 75% of which is populated by migrant workers. Better Work (2017) [Better Work Jordan Annual Report 2017: An Industry and Compliance Review](#), February 2017; Royal Scientific Society of Jordan; Friedrich-Ebert-Stiftung (2013) [The Future of Jordan's Qualified Industrial Zones \(QIZ\)](#)

lacking).¹¹⁰ However, outside of these zones, and prior to the 2009 amendment to the Jordanian labour law, migrants were prohibited from even joining, let alone forming, trade unions. In 2009, the right to join was granted to non-citizens across Jordan, however migrant workers remain prohibited from being founding members of a union. The impact of this prohibition on domestic workers, given they are almost exclusively migrant women, is immense, as there is no existing trade union for them to join within this sector. The remaining alternative channels for organisation of domestic workers include labour rights-focused NGOs that support this group through formation of cooperatives, which could eventually lead to trade union affiliation.¹¹¹ Although Jordan has not yet ratified the ILO Convention no. 87 (Freedom of Association and Protection of the Right to Organise), it is state party to the C098 on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Moreover, given it has been an ILO member since 1965, these legislative gaps could be critiqued in the context of the ILO Constitution and the 1998 Declaration on the Fundamental Principles and Rights at Work, that commits member states to “respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions”.¹¹²

DOMESTIC WORKERS

Guideline 2 explicitly acknowledges the protection needs of migrant women, who are often at risk of gender-based discrimination due to family, marital or parental status. The domestic work sector, as is the case in Lebanon, is virtually exclusively dependent on female migrant labour. In terms of conformity with domestic and international standards for migrant labour and human rights, a majority of stakeholders highlighted the situation of domestic workers where reports of exploitation including abuse (verbal, physical and sexual), forced labour, trafficking and identification of trafficked victims among migrant workers, including in detention, are serious issues. A number of welcome policy developments, as previously mentioned, have taken place since 2009 in order to improve working conditions for domestic workers, however these remain challenged by a lack of effective supervision and enforcement mechanisms.¹¹³

Regulation No. 90¹¹⁴ specifies decent conditions of work with which the employer must comply including payment and treatment, setting out rights for decent sleeping quarters, medical care, paid annual leave and sick leave (14 days for each).¹¹⁵ In 2011, amendments to legislation replaced the requirement for domestic workers to obtain approval from employers before leaving the house, meaning that the worker now only has to inform the employer. Notably, the MoL updated the process through which a domestic worker can transfer from one employer to another in 2012. Domestic workers are now entitled by law to unilaterally change employer

110 Better Work (2017) [Better Work Jordan Annual Report 2017: An Industry and Compliance Review](#), February 2017; Tamkeen Fields for Aid (2017) [Walled in by Alienation: Working and Living Conditions of Migrant Workers in Jordan](#), 6 March 2017

111 ILO (2015) [Working Paper: Cooperating out of isolation: the case of migrant domestic workers in Kuwait, Lebanon and Jordan](#), 12 February 2015

112 ILO (1998) [ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up](#) - adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010)

113 This separation of domestic workers from the labour code through special regulations was also criticised by several for making labour law more opaque and convoluted overall. Tamkeen Fields for Legal Aid (2012) [Addressing Migrant Workers in Jordan: The Legal Framework to Protect Migrant Workers](#); Government of Jordan (2009) [2009 Anti-Human Trafficking Law](#), 25 January 2009

114 The 2009 No. 90 Regulations for Home Workers Cooks, Gardeners and Similar Categories, and the No. 12 Regulation of 2015 for the Organisation of Private Recruitment Agencies Working in the Recruitment of Domestic Workers are of key importance in regularising the situation of domestic workers. The Jordanian Anti-Human Trafficking Law likewise provides crucial protection to migrant workers in this sector. Government of the Hashemite Kingdom of Jordan (2015) [Regulation No. 12 of 2015 regulating the organisation of Private Recruitment Agencies for the Recruitment of Non-Jordanian Domestic Workers](#), 16 February 2015; Government of the Hashemite Kingdom of Jordan (2009) [Regulation No 90/2009 Of Domestic Workers, Cooks, Gardeners And Similar Categories](#), 25 August 2009

115 The MoL is responsible for offering counselling, guidance and awareness raising through meetings in the ministry, home visits and at the office. In the case of complaints or tips, the MoL should summon the owner and worker to the ministry to resolve complaints.

within the first 60 days of contract, in theory, creating a layer of protection should the migrant worker experience any violation of their rights during this initial time period.

Although alternatives to ‘live-in’¹¹⁶ situations are increasing, this model remains the most common and is often formalised through the contract and work permit. Similar to the situation of other migrant workers but exacerbated through this ‘live-in’ model, the worker runs the risk of exploitation, detention or deportation if the employer fails to renew the work permit.

LABOUR INSPECTIONS

Guideline 3 provides specific guidance regarding oversight of working conditions. Jordan is a state party to ILO C81 Labour Inspection Convention of 1947.¹¹⁷ At the domestic level, labour inspections in Jordan are regulated by Act No. 56 of the 1996 Jordan Labour code.¹¹⁸ However, due to understaffing, the focus of labour inspectors in practice is reportedly prioritised towards identifying migrant employees without work permits, as opposed to inspecting and upholding working conditions, indicating a clear absence of “binding and effective firewalls” to safeguard undocumented migrant workers.¹¹⁹ That being said, there have been occasional cases of detection and prosecution of abusive employers, such as the closure of a garment factory in Irbid, following allegations of human trafficking of over 100 Bangladeshi and Indian workers.¹²⁰ Interviews revealed that certain economic sectors are moreover more likely to receive inspections (for example construction), whereas domestic work does not form part of the inspection system at all, made more complex by the live-in situations of the majority of migrant domestic workers.¹²¹ Evidently, this contributes to the already limited oversight that this sector receives through the aforementioned lack of integration of specified rights into national legislation.

Guideline 4 calls for effective complaint mechanisms and judicial remedies regardless of legal status. Our findings indicate that access to and outcomes of such accountability channels remain heavily influenced by the employer-sponsor responsible for the legal entry and residence of the migrant in question.

RECRUITMENT

Guideline 5 outlines instructions on how to eliminate exploitation from the recruitment process. As in other Arab states that link legal status to employment contracts and sponsors, migrant workers in Jordan are vulnerable to exploitation. As previously mentioned, migrant workers require an employer-sponsor for admission into Jordan on the basis of a one-year contract, when Jordanians are not available to do the job.¹²² Despite this a large number of non-citizens are already working in the country informally. This includes Syrians, and other nationalities,

116 “Among domestic workers, there are various types of employment arrangement that create subgroups within the sector. One major differentiation is between domestic workers who live in the homes of their employers and those who live in their own homes (live out)”. ILO (2017) ILO home, Topics, Wages, Minimum wages, Domestic workers, 8.9 Live-in and live-out domestic workers

117 ILO (1947) [ILO C81 Labour Inspection Convention of 1947](#), 11 July 1947

118 Article 7, Government of the Hashemite Kingdom of Jordan (1996) [Labour Code, Law No. 8 of 1996](#), 2nd March 1996

119 The separation of enforcement of labour law from the enforcement of immigration is clearly stated within Article 3, paragraph 2 of the Labour Inspection Convention, 1947 (No. 81) which Jordan has ratified. It outlines that any additional duties (such as detection of irregular migrants) should not detract from a labour inspector’s core responsibilities to evaluate conditions and protect the worker. ILO (1947) [ILO C81 Labour Inspection Convention of 1947](#), 11 July 1947; ILO (2006) [General Survey of reports concerning Labour Inspection Conventions and Recommendations, ILC 95th Session, Report III \(Part B\)](#), 1 June 2006

120 Azzeh, Laila (2017) [Minister orders factory closure after alleged abuse of guest workers](#), Jordan Times, 25 February 2017

121 The enforcement of rights of migrant workers is monitored closely in Jordan by the Government and civil society both locally and internationally. [The Jordanian Anti-Human Trafficking National Committee](#) generates reports on government responses to possible human trafficking incidents.

122 The main aspects of immigration and labour issues are found in Law No. 24 on Residence and Foreigners Affairs in 1973 (as modified in 1998), the By-Law No. 3 of 1997 regulating Visa Requirements as well as the labour laws referred to above

who entered the country as refugees or irregularly, and migrants who have entered the Jordanian labour market via a sponsor but subsequently sought informal employment. Both the employer and the employee alike risk a number of sanctions if domestic regulations are not complied with.¹²³ A regulation that deserves highlighting in relation to the sponsorship system is that non-Syrian migrant workers need their employer-sponsor's permission to terminate employment, to transfer to a different sponsor or even to leave Jordan. Interviews revealed how this set up frequently results in the withholding of identity or travel documents by employers in order to restrict movement, a clear violation of rights included under the aforementioned Guideline 4 of GMG Principle 6 on human rights-based returns ("that no migrant should be deprived arbitrarily of his or her nationality or travel documents").

For reasons both voluntary and involuntary, many foreign workers do not possess work permits, or, if they do, may purchase them on the black market without any employer relationship to the sponsor as designated on the permit. Another way in which a previously regular migrant worker may become an irregular migrant is through the sponsor not having renewed the permit despite ongoing employment, the worker unilaterally terminating the contract or by changing employer. This, in combination with the, until very recently¹²⁴, inflexibility of the singular sponsor-employer relationship preventing Syrians from working in multiple positions/sectors simultaneously may disincentivise many from leaving the informal sector. Nevertheless, on 4 March 2018, the GoJ Mol announced a documentation amnesty for all Syrians who left official camps without official authorisation to reside in host communities before 1 July 2017, a significant step towards inclusion of the at least 80% of Syrians living in such situations of irregularity.

A work permit may be viewed by many as protection against deportation but also as guaranteeing freedom of movement.¹²⁵ Despite this, obtaining black market permits without an employee relationship to the sponsor designated on the actual permit is common practice among migrants in Jordan, despite the fact that Jordanian law prohibits this through Article 23.2 of the No. 2 1969 Passport Act. Together with amendments from 2013, this provides for both fines or imprisonment for a person illegally holding a passport or travel document.¹²⁶ Stakeholders noted that the strict link between sponsors and work permit/legal status exacerbates vulnerability amongst migrants and often results in restrictions upon freedom of movement, notably through employers withholding or confiscating worker passports. The Jordanian penal code does not currently explicitly provide protection against such cases, despite indications that the above article could be argued to cover illegal possession of another individual's passport.

123 Article 12 identifies three situations which are considered violations of the law: (i) employing a non-Jordanian without a work permit; (ii) a non-Jordanian working for an employer other than one approved by the Ministry of Labour; and (iii) a non-Jordanian working in a profession other than the one approved by the Ministry of Labour. Government of the Hashemite Kingdom of Jordan (1973) [Jordanian Law No. 24 of 1973 on Residence and Foreigners' Affairs](#), 1 January 1973

124 ILO (2017) [Jordan issues first-of-its-kind work permits to Syria refugees in the Arab region](#), 10 August 2017

125 Razzaz, Susan (2017) [A challenging market becomes more challenging: Jordanian Workers, Migrant Workers and Refugees in the Jordanian Labour Market](#)

126 Tamkeen Fields for Legal Aid (2015) [An Analytic Review of Jordanian Legislation Related to Anti-Trafficking](#), January 2015

Policy recommendations Jordan	
To non-state actors	<ul style="list-style-type: none"> • Advocate for increased access to monitor and document cases of <i>refoulement</i> and deportation in order to hold states accountable for human rights violations of vulnerable groups
To the Public Security Directorate	<ul style="list-style-type: none"> • Ensure access to legal services and judicial remedies in cases of <i>refoulement</i> and deportation for foreign nationals • Minimise administrative detention of all migrants pending deportation
To the Ministry of Labour	<ul style="list-style-type: none"> • Harmonise working conditions for migrant and national workers with the added benefit of enabling nationals to compete in the labour market, in particular <ul style="list-style-type: none"> - Harmonise the minimum wage in practice for Jordanian and migrant workers - Standardise the minimum wage in practice for all migrant workers, independent of bilateral agreements with individual migrant-sending countries or sector - Address late or withheld payments, including overtime wages in practice for migrant workers through prevention and prosecution measures - Include migrant-reliant sectors under labour law by ensuring its standardised application to agricultural and domestic workers and effective governmental oversight of both - Ensure consistent and equitable social security for migrant workers irrespective of country of origin, occupation or type of contract - Guarantee the right of migrants to found trade unions • Ensure equitable labour inspection coverage of all sectors • Allow migrant workers due access to complaint mechanisms and judicial remedies based on their rights and independent of the employer-sponsor's role in the migrant's residency status • Revise the requirement that migrant workers must seek permission from their employer-sponsor to terminate/transfer a contract or leave the country, in order to reduce the vulnerability of migrants at the hands of exploitative employers • Include specific provision into Jordanian labour law safeguarding against the confiscation of identity/travel documents
To OHCHR	<ul style="list-style-type: none"> • Enhance MoL capacity on monitoring decent working conditions and effective labour inspections in line with ILO Labour Inspection Convention, 1947 (No. 81). For instance, by ensuring that labour inspections do not prioritise detection of irregular migrant workers over just and favourable working conditions and establish firewalls for migrants working informally. • Increase efforts to reach those not yet benefiting from the Jordan Compact work permit scheme and advocate for its extension to non-Syrian foreign nationals in need of better labour integration and protection • Monitor the implementation of the documentation amnesty for Syrians residing irregularly in host communities to ensure equitable access; advocate for extension of eligibility criteria to include those outside of current scope • Increase awareness of employers and migrant workers of rights and obligations, especially within the domestic worker sector • Encourage ratification and full implementation of <ul style="list-style-type: none"> - The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) - The Migration for Employment Convention (Revised), 1949 (No. 97) - The Domestic Workers Convention, 2011 (No. 189) - The ILO Forced Labour Protocol N° 29 to the Forced Labour Convention, 1930 (No.29) - The International Convention on the Rights of Migrant Workers and Members of their Families (Supplementary Provisions) Convention, 1975 (No. 143) - The Labour Inspection Convention, 1947 (No. 81)

LEBANON

Lebanese migration and labour context

Like Jordan, Lebanon has hosted a large proportion of Palestinian refugees since 1948.¹²⁷ Reconstruction following the 1975–90 civil war resulted in significant governmental debt¹²⁸ alongside the Syrian refugee crisis which has severely impacted the country's economy and caused strain within its social fabric. As of January 2018, just under one million Syrian refugees were registered in Lebanon.¹²⁹ Lebanon's first official census on Palestinians revealed that 174,422 refugees are residing in the country, as of December 2017, a significantly lower figure than the 450,000 previously registered with UNRWA.¹³⁰ This drastic decrease has been attributed to the large numbers of Palestinians that left Lebanon following the withdrawal of the Palestinian Liberation Organisation in the 1980s, alongside those who emigrated abroad. Though the reasons for such remain unclear, there has been a decrease in the number of Palestinians Refugees from Syria (PRS) registered with UNRWA in Lebanon since December 2014, from 41,413 to 32,000 (as of the end of December 2016).¹³¹ Regardless, the proportion of refugees to Lebanese nationals remains high and with it, the strain on employment opportunities for all continues to exacerbate tensions within the host community.¹³² Official figures are also most likely conservative estimations of the accurate number of Syrians and PRS in the country, given reports of undocumented communities and the ongoing use of smuggling routes for entry.¹³³

Accurate secondary data on migration and labour in Lebanon are difficult to obtain and often contradictory, but in 2012, the Lebanese unemployment rate was estimated at 11% (18% among women and 34% among youth).¹³⁴ The number of migrant workers from Asia, Africa and other Arab states has been on the rise, yet exact and cohesive data across sectors remains elusive. A factor further complicating these estimates is that many migrant workers work informally, without permits, in the agriculture, construction and domestic sectors. The latest available secondary data indicates that the MoL issued 209,674 work permits to foreigners in 2015, with the highest number to Ethiopians at 73,419, most commonly to female domestic workers.¹³⁵ In general, migrant workers represent low-cost labour for employers and therefore unfair competition for Lebanese workers, as they are not covered by social insurance nor health insurance schemes. This reality has led to general tension between host and refugee and other migrant communities, due to the perception that refugees have created unfair competition in the labour market, a reduction in wages and a rise in real estate prices.

Further to this, consultations underlined how the association by the Lebanese public and government of foreign nationals with perceived security threats deepens an existing distrust

127 Palestine refugees represent an estimated 10% of the population of Lebanon. Palestinian refugees are unable to claim the same fundamental rights as other migrants living and working in Lebanon. For instance, they cannot work in as many as 20 professions.

128 CIA World Factbook (2017) [Lebanon](#), 14 November 2017

129 UNHCR (2018) [Syria Refugee Response Portal – Inter-agency Information Sharing Portal - Lebanon](#), January 2018

130 Sewell, Abby (2017) [Palestinians in Lebanon Less than Half Previous Estimate, Census Shows](#), Middle East Eye, 21 December 2017

131 UNRWA (2018) [PRS in Lebanon](#)

132 As of 31 January 2018, 995,512 Syrian refugees were registered in Lebanon, representing 16.6% of the total population, according to World Bank statistics of 2016. UNHCR (2018) [Syria Regional Refugee Response – Inter-agency Information Sharing Portal - Lebanon](#), 31 January 2018; World Bank (2016) [Data – Population Total – Lebanon](#), 2016

133 Reuters (2018) [Syrians Freeze to Death Crossing Mountains into Lebanon](#), 19 January 2018

134 Devarajan, Shantayanan; Mottaghi, Lili (2017) [Middle East and North Africa Economic Monitor, October 2017: Refugee Crisis in MENA, Meeting the Development Challenges](#), 11 October 2017; Mazloum, Nadine (2016) [Crippling the youth: Unemployment in Lebanon at an all-time high](#), 19 August 2016; Al-Akhbar (2016) [Unemployment in Lebanon: We need 6 times the available jobs](#), 13 August 2016

135 Migration Policy Centre (MPC) (2017) [Migration Profile: Lebanon](#), May 2017

and suspicion of foreigners in the country. Scarce current data on Lebanon's informal sector exists, yet World Bank statistics from 2010 approximate that informal wage workers constitute 20% of the country's labour force, with an additional 30% as self-employed, neither of which have consistent access to formal insurance arrangements.¹³⁶ A recent report estimated that as much as 65% of Lebanon's labour market could be comprised of informal workers, on the basis of non-contribution to social security.¹³⁷ The number of migrants within the informal sector is not publicly available but believed to be high by all stakeholders interviewed, particularly given the high levels of influx of Syrians into the informal labour market in recent years.

In relation to the integration of Syrian refugees into the Lebanese labour market, the government has expressed its intent to make changes. During the 2016 London Conference on Supporting Syria and the Region, the GoL issued a statement, according to which "it is cognizant of the fact that the employment of Syrians necessitates a review of existing regulatory frameworks related to residency conditions and work permits. It is seeking, in conformity with Lebanese laws, ways to facilitate the streamlining of such regulations, including a periodical waiver of residency fees and simplification of documentation requirements such as waiving the "pledge not to work" requirement for Syrians and accordingly easing the access of Syrians to the job market in certain sectors where they are not in direct competition with Lebanese, such as agriculture, construction and other labor-intensive sectors".¹³⁸ In November 2016, an agreement was formalised with the EU to a total of nearly EUR 480 million over two years, from 2016 to 2017.¹³⁹ A number of these objectives have indeed been achieved, including the waiving of the "pledge not to work" in June 2016, waiving of registration fees and the simplification of documentation requirements (see next section). Nonetheless, this was replaced by a "pledge to abide by Lebanese laws", which indirectly prohibits Syrians from working without a work permit and Lebanese sponsor.

The domestic legal context for migrants

An underdeveloped and fragmented regulatory framework for asylum and migration, and inconsistent application of the same, represent a major challenge for the protection of migrant and refugee rights in Lebanon. It can be argued that the Lebanese constitution grants precedence to international over domestic law: "Lebanon has an Arab identity and belonging. It is a founding active member of the Arab League, committed to its Charter; as it is a founding active member of the United Nations Organization, committed to its Charter and the Universal Declaration of Human Rights. The State embodies these principles in all sectors and scopes without exception."¹⁴⁰ Some landmark cases have even been argued on the basis of international human rights treaties since 2012, for instance through the use of the UDHR in successfully advocating for the return of a Philippine domestic worker's passport from a withholding employer.¹⁴¹ Nevertheless, local practitioners in refugee and migrant protection reported that this provision is rarely implemented in practice.¹⁴²

136 Robalino, David; Sayed, Haneed (2012) [Republic of Lebanon, Good Jobs Needed, The Role of Macro, Investment, Education, Labor and Social Protection Policies \("Miles"\)](#), A Multi-Year Technical Cooperation Program, Middle East and North Africa Human Development Group (MNSHD), World Bank, December 2012

137 Chen, Martha; Harvey, Jenny (2017) [The Informal Economy in Arab Nations: A Comparative Perspective](#), Paper for Arab Watch Report on Informal Employment in MENA Region WIEGO Network 23 January 2017

138 Supporting Syria and the Region (2016) Final: [London Conference – Lebanon Statement of Intent, Presented by the Republic of Lebanon](#), 4 February 2016

139 Refugees Deeply (2017) [The Compact Experiment: Push for Refugee Jobs Confronts Reality of Jordan and Lebanon](#), December 2017; European Council, Council of the European Union (2016) [EU and Lebanon adopt partnership priorities and compact](#), 15 November 2016

140 Preamble to the constitution, Section B, The Constitute Project (2004) [Lebanon's Constitution of 1926 with Amendments through 2004](#), Oxford University Press, Inc.

141 Mansour-Ille, Dina; Hendow, Maegan (2017) [Migrants in Countries in Crisis \(MICIC\) Lebanon Case Study: Migrant Domestic Workers and the 2006 Crisis](#), 22 May 2017

142 Janmyr, Maja (2017) [No Country of Asylum: 'Legitimizing' Lebanon's Rejection of the 1951 Refugee Convention](#), International Journal of Refugee Law, Volume 29, Issue 3, 13 November 2017

Lebanon is not a party to the 1951 Refugee Convention or the 1967 Protocol but signed an MoU with the UNHCR in 2003 and agreed upon the Lebanon Crisis Response Plan 2015-2016 in 2014, in cooperation with UN agencies, international and local NGOs, which has since been updated for the years 2017 to 2020.¹⁴³ As such, an “asylum seeker” (or those referred to as “displaced” by media and government) is defined as a “person seeking asylum other than in Lebanon”, given the complete absence of a state-led asylum system in the country. With regards to Palestinian refugees, UNRWA continue to provide aid and monitor the government’s treatment of Palestinian refugees from Syria in Lebanon. Article 26 of the 1962 Law Regulating the Entry, Stay and Exit from Lebanon stipulates that any “foreign national who is the subject of a prosecution or a conviction by an authority that is not Lebanese for a political crime or whose life or freedom is threatened, also for political reasons, may request political asylum in Lebanon.”¹⁴⁴ This illustrates the extent of Lebanon’s existing legislation towards refugee response, the majority of which takes root in the aforementioned MoU, which is heavily focused on resettlement as opposed to permanent or even temporary integration beyond three to nine months. Despite the absence of asylum in Lebanon, non-refoulement, as acknowledged through Article 31, is bolstered by safeguards present in a number of international treaties to which Lebanon is a signatory.¹⁴⁵ The GoL also commits not to return individuals registered with the UNHCR to the same country from which they fled.¹⁴⁶ Lebanon is a state party to the CAT, prohibiting refoulement of a person to a country where they are in danger of torture or ill treatment and to the CERD, the ICESR, the ICCPR, the CEDAW and the 1989 CRC. It is also a party to the Arab Charter of Human Rights which asserts the right to seek asylum and protection against refoulement in Articles 23 and 26 (2).¹⁴⁷

Whereas Syrians were previously free to enter the country and renew residency without excessive cost, in 2014, the country began to witness a shift towards increasingly restrictive policies. In parallel with the drafting of the Lebanon Crisis Response Plan in 2014, the government produced a policy paper outlining three explicit objectives in tackling the presence of Syrians in Lebanon: 1) to reduce the number of Syrians in the country by reducing territorial access and encouraging return; 2) to increase surveillance of the Syrian population in Lebanon through provision of further support to municipal police and implementing regular surveys and 3) to ease pressure on infrastructure, alongside other specific steps designed to govern displaced persons and foreigners and to “protect Lebanese employment and employment more generally.”¹⁴⁸ After its release, the GoL implemented specific regulations towards their entry in January 2015.¹⁴⁹ The latest list of regular entry criteria for Syrians

143 Lebanon’s reticence to adopt the Convention is similar to that of many other Arab host states related to the situation of Palestine refugees: “The Ministry (...) wishes to emphasize generally that Lebanon, a country which is already quite densely populated, and which for a number of years has shown the greatest liberality and hospitality towards the Palestine refugee, could not safely afford to increase her undertakings in this direction. This hesitation applies particularly to certain provisions of the Draft Convention which it is feared might give certain undesirables access to Lebanese territory or asylum there.” UNHCR (1990) [UN High Commissioner for Refugees \(UNHCR\), The Refugee Convention, 1951: The Travaux préparatoires analysed with a Commentary by Dr. Paul Weis](#); Bidinger, Sarah; Lang, Aaron; Hites, Danielle; Kuzmova, Yoana; Nouredine, Elena (2014) [Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing](#), BADIL Resource Center for Palestinian Residency and Refugee Rights, Boston University, 28 October 2014; Government of Lebanon and the United Nations (2015) [Lebanon Crisis Response Plan 2015-2016](#); Government of Lebanon and the United Nations (2017) [Lebanon Crisis Response Plan 2017-2020](#)

144 Government of Lebanon (1962) [Law of 1962 Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, Bulletin de Législation Libanaise \(Journal Officiel\), No. 28-1962](#). Source partially translated in English, courtesy of UNODC

145 Article 31 states that, “If a decision to expel a political refugee has been made it is not permissible to deport such refugee to the territory of a state where his life or freedom are not secured.” Library of Congress (2018) [Refugee Law and Policy, Lebanon, Domestic Legislation](#)

146 UNHCR (2004) [Country Operations Plan – Lebanon, 1 January – 31 December 2004](#)

147 League of Arab States (LAS) (1994) [Arab Charter of Human Rights](#), 15 September 1994; OHCHR (2006) [OHCHR Discussion Paper: Expulsions of aliens in international human rights law, Geneva, September 2006](#)

148 Janmyr, Maja (2016) [The Legal Status of Syrian Refugees in Lebanon](#), Issam Fares Institute for Public Policy and International Affairs, 31 March 2016

149 HRW (2016) [I Just Wanted to be Treated like a Person: How Lebanon’s Residency Rules Facilitate Abuse of Syrian Refugees](#), 12 January 2016

includes tourism, property ownership or tenancy, transit travel, paid medical care, and work, amongst others.¹⁵⁰ A separate, further restricted list details 'humanitarian exception criteria' through which a narrow scope of 'vulnerable Syrians' may seek access without the regular 2015 eligibility.¹⁵¹ During the same period, the GoL ordered UNHCR to cease all registration of Syrian mandate refugees within the country, pending the establishment of a new registration system.¹⁵² From January 2015, those present in the country before this date were required to jump through a series of complex administrative hoops to renew their residency, either through Lebanese sponsorship or a 'pledge not to work', both of which exponentially increase the individual and family's vulnerability, not to mention excessive fees.¹⁵³ From June 2016, the 'pledge not to work' was updated to a 'pledge to abide by Lebanese Law', to be signed every year. A new waiver for residence permit renewal was introduced in March 2017, but only applies to those who arrived prior to the policy shift in January 2015.¹⁵⁴ A further two amendments simplifying documentation requirements for Syrians and PRS living irregularly within Lebanon were made in September and October 2017. The new memorandums exempt Syrians who arrived irregularly from having to leave the country to change residency sponsor and in some cases, from showing a residency permit in order to register births and marriages.¹⁵⁵ PRS are also now able to register a marriage, when only one of the couple has legal residency, and can register a birth without the legal residency of either parent.¹⁵⁶ UNRWA reported in February that 40% of PRS living in Lebanon entered irregularly, underscoring the significance of such changes to their right to freedom of movement

Labour regulations for foreign nationals working in Lebanon are distributed among various laws or bilateral agreements between Lebanon and countries of origin.¹⁵⁷ Lebanon, like Jordan, has ratified seven out of eight core ILO Conventions. It has not ratified ILO Convention 87 which states that all workers and employees, without distinction or restriction, have the right to form or join a union, nor Convention 189 on domestic workers, adopted in 2011, which recognises their right to organise and collective bargaining.¹⁵⁸ Much like Jordan, it is not yet a party to the 1990 ICRMW.¹⁵⁹ 'Foreigners' may enter Lebanon under identified visa categories including tourism, sponsorship and business, provided that a number of additional requirements are met. As a general rule, a migrant may obtain residency in Lebanon through a sponsorship contract with an employer and must apply to the Ministry of Labour in order

150 Requirements to enter Lebanon with an agricultural visa, for example, include the following: 1) pledge of responsibility 2) pledge of residency signed by the Lebanese sponsor 3) identification of the Lebanese sponsor 4) identification or passport of the Syrian applicant 5) proof of ownership of agricultural land of the Lebanese sponsor 6) statement from the municipality stating the applicant's place of residence in Lebanon 7) statement from the municipality explaining that the Lebanese sponsor needs workers; International Centre for Migration Policy Development (ICMPD) (2017) [Briefing Note Migration Policies in Lebanon](#), February 2017

151 "Persons falling within the category of humanitarian exceptions include: unaccompanied and separated children (under 16 years of age) whose parents and legal guardians are confirmed to be displaced in Lebanon; persons with disabilities dependent on family and relatives confirmed to be displaced in Lebanon; persons in need of life-saving medical treatment not usually available in Syria, or not available in a timely manner; and individuals pursuing resettlement or transitioning through Lebanon to a third country, with proof of onward travel outside Lebanon." Government of Lebanon, UN Resident and Humanitarian Coordinator for Lebanon (2017) [Lebanon Crisis Response Plan 2017-2020](#), 16 January 2017

152 Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC) (2015) [Legal Status of Refugees from Syria: Challenges And Consequences Of Maintaining Legal Stay In Beirut And Mount Lebanon](#), June 2015

153 Ibid.

154 MMP (2017) [On My Own: Protection challenges from unaccompanied minors in Jordan, Lebanon and Greece](#), September 2017

155 Dadouch, Sarah (2017) [As Syrian couples say "I do", Lebanon says "No, not quite"](#), Reuters, 18 December 2017

156 Action Group for Palestinians Living in Syria (2017) [New Lebanese circular facilitates the implementation of marriage and birth documents belonging to Palestinian-Syrians](#), 11 October 2017

157 Some worth mentioning are the 2011 Anti-Trafficking Law n° 164 (penalties for sex trafficking and forced labour range from five to 15 years imprisonment), 2010 Decree n° 4186, amending Decree n° 10188 of 28 July 1962 on the implementation of the law regulating the entry and stay in Lebanon, as well as leaving the country, 2010 Law n° 129 amending article 59 of the Labour Code of 1946, 1995 Decision n°. 621/1 on occupations reserved to Lebanese nationals (amended as above/below), 1964 By-Law n° 17561 regulating the work of foreigners in Lebanon with amendments, the 1962 Law regulating the entry of foreigners into Lebanon, their stay and their exit from Lebanon, 1962 Law n° 320 on the control of entry and exit from Lebanese border posts and the 1925 Decree n°15 modified in 1960.

158 ILO (2011) [C189 Convention concerning decent work for domestic workers](#), 16 June 2011

159 OHCHR (1990) [International Convention on the Rights of All Migrants Workers and Members of their Families](#), 18 December 1990

to obtain work permits that further require authorisation from the General Security Division. Working without a permit is regulated through both penal and administrative sanctions. Despite this, the informal labour market remains a prominent source of income for foreign nationals, regardless of legal status. Sanctions likewise exist for employers of irregular migrants (though they may be regularised through labour sponsorship/authorisation). In February 2013, Resolution No. 1/19 allowed refugees to access certain professions previously restricted to Lebanese nationals, such as construction, electricity, and sales.¹⁶⁰

Domestic work remains one of the most poorly regulated sectors in Lebanese labour law. In fact, exploitation of migrant domestic workers has become so commonplace that the governments of Ethiopia (2008), the Philippines (2007), Nepal (2010), Madagascar (2010), Kenya (2012) and Indonesia (2015) have banned their nationals from working in this sector over the years due to increasing reports of abuse, and suicide, at the hands of employer-sponsors.¹⁶¹ However, this had the perverse effect of increasing the risk of exploitation for these nationalities, as migrant workers from these countries continue to come to Lebanon, only now with a complete lack of oversight, in irregular situations with increased vulnerabilities.¹⁶² Further, the GoL continues to issue work permits to migrants from countries that have banned emigration to Lebanon on the basis of domestic work, some initially entering as 'tourists'.

Findings

As in the previous chapter, this section gives an overview of the major findings from the field research as regards three distinct but interconnected areas: awareness of and perception of the GMG principles, major protection concerns in relation to Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law) and Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions). Most of these findings will focus on the existence and implementation of human rights in domestic legislation for migrant domestic workers, considering this sector poses particular protection challenges.

Awareness of and perception of the GMG principles

As in Jordan, stakeholders interviewed in Lebanon were aware of the forthcoming Global Compact for Refugees as arising out of the NYD. There was less consideration given to the development of an international protection framework for migrants within the NY declaration or even the GCM. Similar to the situation in Jordan, there was no awareness at all among those interviewed of the GMG/OHCHR draft principles and guidelines. Upon discussion, the relevance of such was actually questioned.

Stakeholders in Lebanon were more concerned with the overall lack of existing domestic framework for asylum and migration than the need for an international soft law normative framework on migration. All those interviewed stressed the need for increased awareness of existing provisions for protection of migrants and refugees according to international law. Local lawyers generally stated that they rarely utilise international legal instruments in

160 The Law Library of Congress, Global Legal Research Center (2013) [Legal Status of Refugees: Egypt, Jordan, Lebanon, and Iraq](#), December 2013

161 The New Arab (2017) [Domestic Workers Death Rate 'Doubles' in Lebanon](#), 16 May 2017; Thapa, LB (2017) [Nepali Migrant Workers in Lebanon: How Safe are Migrant Workers in Lebanon?](#), The Roaming Post, 3 May 2017

162 Mansour-Ille, Dina; Hendow, Maegan (2017) [Migrants in Countries in Crisis \(MICIC\) Lebanon Case Study: Migrant Domestic Workers and the 2006 Crisis](#), 22 May 2017

pleading with national authorities for the protection of foreign nationals. INGOs and other international organisations however expressed using a number of legal instruments in their respective fields of intervention. The lack of effective and transparent coordination between humanitarian/livelihood and development actors in the field of migration and development was also cited as an issue, echoing the findings from Jordan.

Principle 6 (Ensure that all returns fully respect the human rights of migrants and comply with international law)

DEPORTATION AND DETENTION

Deportation, collective expulsion and detention in violation of the principle of non-refoulement for refugees (including Syrians) and other foreign nationals were cited more commonly as issues by stakeholders in Lebanon than in Jordan (Guideline 1, 2). Guideline 1 stipulates that no person should be returned if the consequence interferes with the right to a family life, while Guideline 6 likewise underscores that returns should only be enacted when in the best interests of the child, including considerations of socio-economic conditions for the family in the country of origin. Cases of deportation of female migrant workers for giving birth in Lebanon were highlighted as a contravention of the rights detailed under these guidelines. Arbitrary detention and forced return of migrant workers and displaced Syrians were also cited by respondents, in conjunction with confiscation of travel documents, indicating an absence of rights outlined under Guidelines 3, 4 and 5. Moreover, deportations of migrant workers and displaced persons from Lebanon to countries of origin with limited socio-economic opportunities and instability do not align with parameters for sustainable return outlined under Guideline 8. Finally, respondents highlighted the limited access and negotiating power of human rights monitors in light of political sensitivities, in reference to recent collective expulsions of Syrians from the Aarsal border area in 2017 (Guideline 9).

Respondents highlighted the recent deportation of a group of female migrant workers with children and/or in case of pregnancy. In April 2017, a local NGO and Human Rights Watch reported the deportation of at least 21 domestic workers since the summer of 2016, “for having children”. According to INSAN, none of the deported women, all domestic workers, were accused of having violated any migration or labour regulations.¹⁶³ Some had been working in Lebanon for decades and were expelled together with their children, despite their husbands remaining in Lebanon for work in certain cases. This case also clearly undermines safeguards stipulated under Guideline 2 of Principle 14 which outlines that states should put measures in place to ensure women migrant workers do not face discrimination on the basis of family, marital or legal partnership status, or pregnancy.

Other cases of detention and deportation of Palestinians, Iraqis and Syrians, in clear violation of the IHRL conventions upon which the aforementioned principles are based, have likewise emerged in recent years.¹⁶⁴ Such action is commonly justified by domestic actors as penalisation for illegal entry into the country, said to violate Article 32 of the 1962 law on foreigners, in denial of the reality that refugees have no option for legal pathways into Lebanon and are left bound by the conditions of their displacement.¹⁶⁵

163 Human Rights Watch (2017) [Lebanon: Migrant Domestic Workers With Children Deported; Detention, Expulsion Interferes With Right to Family Life](#), 25 April 2017

164 Tariq Al-Zubaidi, Qusay (2016) [Imprisonment and deportation of Iraqi refugees in Lebanon](#), Forced Migration Review, May 2016; HRW (2016) [Lebanon: Stop Forcible Returns to Syria, Assess Risk of Harm Facing Those Sent Back](#), 11 January 2016

165 Syrian refugees that fail to renew their residency after numerous warnings from the General Security Office are issued a Departure Order, as opposed to facing physical deportation by the authorities. Government of Lebanon (1962) [Law of 1962 Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, Bulletin de Législation Libanaise \(Journal Officiel\)](#), No. 28-1962. Source partially translated in English, courtesy of UNODC.

CONDITIONS OF RETURN

Guideline 3 outlines the importance of adequate conditions throughout the return process and of return free from coercion. This language is echoed in Guideline 5 which states that the return process must be carried out “in accordance with international law”. Migrant workers and Syrian refugees in irregular situations in Lebanon are particularly vulnerable to detention and return, without access to the aforementioned rights. Findings revealed that prolonged administrative detention pending deportation remains a major concern, more often than not in overcrowded and difficult conditions (migrant workers are commonly detained in the General Security detention centre in Beirut)¹⁶⁶. Irregular migrants are also prone to criminal charges linked to their irregular status, thereafter justifying their transfer to an administrative detention facility pending deportation for which there is no legislative limit.¹⁶⁷ A recent statement from the General Security Division estimated that there were as many as 337 migrant domestic workers in prisons across Lebanon by October 2017.¹⁶⁸

Scarce research has been conducted into the conditions of return for migrant domestic workers deported from Lebanon, given that the bulk has focused on labour rights and conditions within Lebanon as opposed to their country of origin. As such, the potential for in-depth analysis on the basis of Guideline 8, which seeks to mitigate the risks return poses through measures to ensure the right to social protection, healthcare, decent work and education opportunities and justice, amongst others, is limited within the scope of this research. Nevertheless, support for those facing return and reintegration once beyond Lebanon’s borders for people on the move remains paramount.

Guideline 9 emphasises the importance of independent human rights monitoring mechanisms for pre-removal and return process and following return. Similarly, Guideline 11 states that, whether forced or voluntary, duty bearers should seek to uphold rights stipulated in the OHCHR Recommended Principles and Guidelines on Human Rights at International Borders, with particular relevance to Guideline 9 on human rights-based or removal.¹⁶⁹ Monitoring of the conditions of returns (forced and voluntary) from Lebanon in relation to human rights nevertheless remains challenging, particularly for refugees in areas controlled by the Lebanese Armed Forces (LAF) and various militia groups where key human rights actors such as UNHCR, OHCHR and ICRC must negotiate access to conduct their evaluations. The mass movement of Syrian refugees and militants from the border area of Lebanon back to Syria in August 2017 has presented ambiguity with regards to the voluntariness of returns implemented.¹⁷⁰ Under the auspices of agreements brokered between Hezbollah and factions of the Free Syrian Army (FSA), at least 10,000 Syrians returned/were returned from Aarsal, and the surrounding area, to rebel-held areas in the Eastern Qalamoun region and other towns close to the Lebanese border. A lack of access for human rights monitors, alongside the fragmented nature of partisan governance around the border area undoubtedly undermined the provision of rights outlined throughout Principle 6 through necessary levels of monitoring and control.

Following legislative developments in 2016, the National Human Rights Institute (NHRI) was established under the National Commission for Human Rights (NCHR), in order to monitor

166 Global Detention Project (2016) [Centres List: Lebanon](#)

167 Ibid.

168 Su, Alice (2017) [Migrant Workers End Up in Prison After Trying to Flee](#), Refugees Deeply, 9 June 2017

169 OHCHR (2014) [Recommended Principles and Guidelines on Human Rights at International Borders](#), 23 July 2014

170 MMP (2017) [Mixed Migration Monthly Summary, Middle East](#), August 2017; Collins, Dylan (2017) [Syrian Refugees in Lebanon Live in Fear After Aarsal](#), 27 August 2017

the situation of such within the country.¹⁷¹ National human rights institutions and Lebanese civil society play an indispensable role in monitoring compliance of domestic implementation of return and labour migrant rights with IHRL. Despite this, stakeholders reported that Lebanon's poor ratification of IHRL conventions, including the ICRMW, has negatively impacted the monitoring of human rights of migrants in line with international law.

Principle 14 (Guarantee the right of migrants to work, in just and favourable conditions)

NON-DISCRIMINATION

Both Guidelines 1 and 2 of GMG Principle 14 iterate the importance of non-discrimination in the labour market. Evidence of such in the Lebanese context remains lacking according to stakeholders interviewed, given that lack of payment, delayed payment, low wages, benefits and career development of foreign nationals are de facto based on nationality rather than on merit. Article 46 of the Lebanese Code of Labour stipulates that "The minimum pay assessed shall be rectified whenever economic circumstances render such review necessary", yet findings indicate this rarely happens in practice.

Both guidelines 1 and 2 warn against the risk of occupational discrimination that migrants may face in the labour market, excluding them from rights afforded under IHRL. Yet, given the large informal share of the economy, partially attributable to the limitations of the Kefala sponsorship system, the lack of lawful employment opportunities and exploitation of migrants by employers was also frequently cited. As in Jordan, the legal status and residency of migrant workers in Lebanon relies upon the sponsorship of their individual employer,¹⁷² to list one cornerstone factor which increases the risk of exploitation for the worker. The fact that residence permits are issued under the name of the individual employer exacerbates the vulnerability of the migrant worker who may not unilaterally terminate the contract or change employer. A person who terminates the contract is forced to forfeit their legal status in Lebanon, a situation which frequently leads to administrative detention pending deportation. The system often also implies restrictions on freedom of movement through confiscation of migrant worker passports. Another resulting concern among stakeholders from such a system was the lack of legal documentation among migrant children.

Restrictions to freedom of movement for refugees or other migrants are a complex matter in Lebanon. Entering Lebanon in violation of admission regulations risks detention and deportation. As adult men are more likely to be intercepted and arrested at checkpoints, as prompted by security concerns, children are increasingly set to work in order to bolster family income, meaning that minors are at greater risk of abuse and exploitation.¹⁷³ Stakeholders confirmed this finding with informal reports of increased levels of child labour since the beginning of 2017, particularly in the capital of Beirut.

171 HRW (2016) [Lebanon: New Law a Step to End Torture: Ensure New Investigations Unit Can Start Work Quickly](#), 28 October 2016

172 KAFA (enough) Violence and Exploitation (2012) [Policy Paper on Reforming the "Sponsorship System" for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon](#), January 2012

173 Wael, Hamzah (2016) [Syrian refugees in Lebanon are falling into slavery and exploitation](#), The Conversation, 16 April 2016; Aranki, Dalia; Kalis, Olivia (2014) [Limited legal status for refugees from Syria in Lebanon](#), *Forced Migration Review* 47, September 2014

DOMESTIC WORKERS

Guideline 2 details trade union rights for all migrants, however a lack of freedom of association and collective bargaining remain major issues in Lebanon, where the Labour Code prohibits migrants from founding labour unions. The existing congress of the Domestic Workers' Union of Lebanon was recently declared "illegal" by the Lebanese Ministry of Labour as a result of this legislation.¹⁷⁴ Despite such legal barriers, however, civil society have made significant efforts to support the representation and political organisation of migrant workers. One such example includes the instigation of a standard unified contract for domestic workers in 2011, a step implemented by the Ministry of Labour in consultation with civil society organisations as a result of advocacy for more formalised regulation of the sector.¹⁷⁵ This remains an isolated example, however, given the reportedly limited influence of NGOs when it comes to labour policy formation at the national level.¹⁷⁶ To illustrate, the National Federation of Employees' and Workers' Unions in Lebanon (FENASOL) supported the founding of Lebanon's first sectorial union for domestic workers in 2015, in conjunction with local NGOs and the International Domestic Workers' Federation (IDWF).¹⁷⁷ However, despite its more than 500 members, the union remains illegitimate in the eyes of the MoL.¹⁷⁸ A number of agreements with migrant-sending countries have been established, yet are lacking effective implementation and endorsement at the state level.¹⁷⁹

Physical, mental and sexual abuse, especially among domestic workers, were cited as major issues for migrant workers working in Lebanon. Domestic workers who predominantly rely on the employer for food and lodging are explicitly excluded from Lebanese labour law in Article 7, which states that "domestic workers employed in private homes are excluded from the present law."¹⁸⁰ Guideline 3 details the strengthening of labour inspectorates to ensure adequacy of working conditions for migrants, yet as domestic workers remain excluded from Lebanese labour law, they are likewise excluded from labour inspections, leading to a lack of oversight for migrants working in such positions. Even in increasing instances of trafficking, it is noteworthy that the crime of trafficking in persons was only integrated into Lebanese penal law in 2011.¹⁸¹

The Kefala system creates fertile conditions for the proliferation of modern slavery and human trafficking taking place far from the eyes of regulatory bodies, often in private homes. A provision inherent to the Kefala system, which does not allow migrant workers to leave the house/place of work without the permission of their employers, entitles employers to confine workers to the house indefinitely, in some cases years.¹⁸² The absence of recourse to report this abuse without risking their legal status further exacerbates the powerlessness of migrant domestic workers in situations of human trafficking¹⁸³, including forced labour and debt bondage.¹⁸⁴ Guideline 4 specifies that states should instate effective complaint

174 Haddad, Emmanuel (2015) In Lebanon, a new domestic workers trade union fights kafala, 9 February 2015

175 Hamati, Roula; Thibos, Cameron (2017) [The Quiet Resistance of Domestic Workers in Lebanon](#), Open Democracy, 8 March 2017

176 Tayah, Marie-José (2014) [Organizing Domestic Workers through Research: The Story of a Participatory Action Research with Women Migrant Domestic Workers, NGOs, and Union members in Lebanon](#), ILO, April 2014

177 ILO (2015) [Founding Congress: Launch of Domestic Workers Union in Lebanon, Beirut](#), 25 January 2015

178 Tayah, Marie-José (2017) [Claiming rights under the kafala system](#), Open Democracy, Beyond Slavery, 17 August 2017

179 Ibid.

180 Haddad, Emmanuel (2015) In Lebanon, a new domestic workers trade union fights kafala, 9 February 2015

181 Government of Lebanon (2011) [Law No. 164 Punishment for the Crime of Trafficking in Persons](#), 1 September 2011 ([English translation](#))

182 Hamill, Kathleen (2011) [Trafficking of Migrant Domestic Workers in Lebanon A Legal Analysis, Kafa \(enough\) Violence & Exploitation](#), March 2011

183 In 2005, Lebanon ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), compelling states to recognise trafficked domestic workers as victims and not criminals, particularly in relation to their immigration status.

184 Hamill, Kathleen (2011) [Trafficking of Migrant Domestic Workers in Lebanon A Legal Analysis, Kafa \(enough\) Violence & Exploitation](#), March 2011

mechanisms to combat discrimination. In the absence of such, as previously mentioned, stakeholders in Lebanon reported that civil society largely serves as a proxy complaints mechanism for migrant domestic workers deprived of rights.

Guideline 5 calls upon states to protect migrants from fraudulent recruitment methods. Interviews with stakeholders revealed how the deception that occurs through the recruitment process in which recruitment agencies may mislead or deceive workers about the conditions in which they'll be working and living in Lebanon may constitute conditions of trafficking. Furthermore, trafficking may occur when work and entry visas are issued to domestic workers from countries with deployment bans against Lebanon. The recruitment process in these circumstances may involve, "taking illicit routes, bribing corrupt officials, and paying middlemen for escort services".¹⁸⁵ Reports were also received of women paying extortionate fees in their country of origin in order to secure work. As the intermediary body between employers and migrant workers, recruitment agencies in Lebanon exercise an inordinate level of control over migrants under contract, even often assuming a disciplinary role when employers are unsatisfied with the behaviour or performance of a domestic worker.

Policy recommendations Lebanon	
To state actors	<ul style="list-style-type: none"> • End the use of detention and deportation as tools for migration control or penalisation against migration regulations • In cases of prolonged administrative detention, ensure migrants have access to due judicial remedies and human rights monitors • Impose a legislative limit on the length of administrative detention for migrants pending deportation • In cases of migrant deportations that involve family members, ensure that these never violate the right to family life or the best interests of the child • Allow access for human rights monitors to critical border areas to ensure adequate oversight and upholding of fundamental migrant rights • Harmonise the minimum wage for all migrant workers, irrespective of country of origin, sector and type of contract • Integrate provisions into Lebanese labour law allowing migrant workers to form labour unions for political representation • Continue to work together with civil society to expand protections for migrant workers, as evidence has proven is possible through the introduction of the 2011 standard unified contract for domestic workers • As in Jordan, amend the legal provision that requires migrant domestic workers in live-in situations to seek their employer-sponsor's permission before leaving the house, often leading to extended confinement with no oversight from local authorities • Update labour legislation tied to the Kefala sponsorship system that removes the requirement that migrants seek permission from their employer-sponsor prior to terminating or transferring their current contract • Ensure access of migrant domestic workers to complaint mechanisms and judicial remedies without risking legal status (a space currently being filled by civil society organisations serving as proxy complaint mechanisms) • Establish careful monitoring, prosecution and elimination of exploitative recruitment agencies through: <ul style="list-style-type: none"> - Integration of safeguards and monitoring into initial recruitment process to prevent deception of migrant workers that could constitute conditions of trafficking - Monitoring and prosecution of abusive practices towards migrants by recruitment agencies acting as disciplinary intermediaries between the employer-sponsor and migrant • De-couple the legal status requirements for children of migrants from that of their parents, to allow them access to documentation • Provide regularisation channels for foreign nationals who entered/are residing in the country irregularly in order to <ul style="list-style-type: none"> - Reduce the risk of detention and deportation - Reduce restrictions on freedom of movement - Reduce the use of negative coping mechanisms within families, including child labour

185 Ibid.

Policy recommendations Lebanon

To state actors

- Integrate explicit provisions safeguarding domestic workers in Lebanese labour law
- Include migrant domestic workers into labour inspection sectors

To OHCHR

- Provide technical assistance to GoL for improved overall regulatory framework for foreign nationals
- Advocate for the introduction of bilateral and multilateral agreements that expand upon rights included in the standard contract for domestic workers
- Development of minimum labour standards, particularly for domestic workers
- Conduct further research on the conditions of return for migrant workers deported to their countries of origin once beyond Lebanon's borders, to facilitate further analysis and advocacy against deportation cases
- Encourage ratification of
 - The Migration for Employment Convention (Revised), 1949 (No. 97)
 - The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)
 - The Domestic Workers Convention, 2011 (No. 189)
 - The International Convention on the Rights of Migrant Workers and Members of their Families (Supplementary Provisions) Convention, 1975 (No. 143)

CONCLUSION

As the first example of a collective migrant protection framework that pulls together all existing human rights legislation towards migrants, the Global Migration Group guidelines represent a key opportunity to formalise migrant protection for all. At this stage, the guidelines will best serve as a tool for state-level advocacy, to highlight, as this study has briefly done, examples of good practice and gaps in policy and procedure towards migrant rights, in order to inform legislative development.

By measuring against these guidelines as a set of baseline standards, neglected areas of migrant rights can be identified by looking at the broader picture of human rights for migrants at the national and regional levels. This, in turn, can facilitate more efficient advocacy with funding bodies to drive financing towards areas of programming outside of mainstream migration discourse from the international to the domestic level.

From the perspective of local actors, it is clear that such a broad tool as it stands is a useful reference document, yet has less immediate practicality in daily advocacy, considering that those working in such positions are already well-versed in international legislation and fundamental migrant rights. As such, any operationalisation must consider the rich local expertise of domestic lawyers and advocacy specialists when navigating the complex regional systems and contexts in which the rights of migrants are too often marred by regional instability, legal ambiguity and widespread and ingrained discriminatory attitudes. Advocacy on the basis of these guidelines would therefore be well placed to focus on sensitisation of institutions and individuals responsible for shaping the legislative environment.

These guidelines are a welcome initiative that drives for the respect of human rights of all people on the move. Its content represents an important step towards addressing the diverse and proliferating protection gaps across migrant profiles and discrepancies between national and international legislation, the continuation of which will remain critical at this juncture in migration policy development.

For more information visit:
mixedmigration.org

