Termination of Employment

Analytical study of legislation and practical application

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Introduction

Dismissal from work, still since the existence of work relationships, is an important and a key element of tension in the relationship between employers and workers. The importance and seriousness of this element is in the countries that have not developed alternative solutions to address the effects of dismissal from work in its legislation or in its policies and programs , Both in areas of employment and providing alternative job opportunities and vocational training and rehabilitation to enable workers who lose their jobs to return as soon as possible to the labor market, or encourage projects that able to absorb employment, including Small- Medium Enterprises (SMEs), or through activating insurance funds and social benefits especially insurance against Unemployment.

Recent years have seen important developments on the Jordanian labor legislation, especially in the amendments made in the years 2004, 2008 and 2010. These developments have had a major impact in promoting legislative protections legislative in work, except that this development is not accompanied by a remarkable development in policies and programs, or in the protection measures alternative to judicial procedures, or to raise awareness for workers and employers, or in the activation of social insurance. On the other hand, these past years have seen calls from the other to achieve what they called a flexible labor market, which means to ease restrictions on the employer from the contractual obligation release with the workers, the calls could have been discussed if accompanied with the achievements of these protections, insurance policies and programs, and to other would be so-called job stability or job security at risk.

This study sheds the light on the legislative aspects for the dismissal from work and the limitation of the employer's authorities, and on the application side both in terms of the relationship between the two parties and its developments in terms of the means of control, jurisprudence procedures, taking into account the size of the labor market; the sectors most affected; analysis statistics; available figures and its implications; and the effectiveness of actions taken by the relevant stakeholders, particularly in the area of inspection, employment, fight against unemployment and consider labor dispute.

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General background

1.1 Population characteristics

According to the Population estimates of 2009, the Hashemite Kingdom of Jordan has a population of 5,980,000; 38.7% of whom live in the capital Amman. The national population growth rate is at 2.2%, which is a relatively high percentage at the international level, and is considered average if considered at the third world level. This is due to an increase in age expectancy which has reached 71.6 years old for men, and 74.4 years old for women; a decrease in the mortality rate of infants; and an improvement in the level of health services. Jordan's society is a young society, with 37.3 % of the population made up of persons who are aged less than 15 years old. While the age of the working population in the 15-64 age group has reached 59.5% of the population. The rate of illiteracy has reached 7.2% for persons aged 15 years and above. While the percentage of university graduates has reached 12.98% with a higher percentage of about 71.4% of persons who have obtained the upper secondary certificate, and lower certificates.

1.2 The labour force

The percentage of the economically active population has reached 40.1% of the population (according to the sources of the National Centre for Human Resources Development in 2009) i.e. about 1,400,805 persons; 122,0521 of whom are employed, and 180,284 unemployed. The unemployment rate stands at 12.9%. While the decrease in the rate of the economically active population is due to a number of reasons, the most important of which is a high percentage of the population aged less than fifteen years old; the increased rate of persons enrolled in education; a diminishing participation rate of women in economic activity as 85.1% of the total number of women are not economically active, while the rate of the economically active among men has reached 64.8%. Accordingly, in 2009, there were 35% of Jordanians who were employed, while the gap widens between the rate of employment of men and that of women, as it had reached 58.1% for men, and women only at 11.3%, which has been a relatively stable rate since 2002.

The majority of workers are focused in the age group of (25-29), (30-39), (40-49) where persons employed are distributed in the following manner out

of the total number of persons employed at 18.7%, 31.2%, and 19.8%. The services sector is considered to be the most attractive sector, as it absorbs 60.5% of employed persons; while the commercial sector absorbs 16.4%, the industrial sector absorbs 12.8%, the construction sector absorbs 6.7%, and agriculture 2.8%. Unemployment among men of the 15-24 age group represents the highest, where it reaches 50.7% of unemployed men. While unemployment among women focused in the 25-39 age group, and reached 50.4% of unemployed women.

1.3 Cases of termination of employment

There are no data on cases of dismissal from work except for figures provided by the Ministry of Labour with respect to ending collective services for economic or technical reasons as shall be explained later on. To this end, there is a need to establish a comprehensive database thereon at the Ministry of Labour. The figures of the Public Statistics Department indicate under the reasons for leaving employment in 2009 which "includes only Jordanians" that there were 85277 Jordanians whose service ended in all sectors, which is a marked increase in comparison to 2007 and 2008 (as they numbered 47434, and 55871 consecutively), 81% of whom in the private sector " informal or formal". The figures given by the Public Statistics Department do not reveal the percentage of dismissal by an employer on the basis of legitimate grounds or not. They only mention what it called "reasons related to working conditions and its nature of work" representing 33.1% of end of service cases in 2009, while it reached 26.4% and 25.1% in 2008, and 2007. Such reasons include the cases of leaving work because of long working hours, lack of sufficient rest periods and distant workplaces (the issue of a lack of a suitable public transport network represents a main obstacle confronting job seekers and the stability of workers in their jobs). With respect to the economic reasons such as the closure of an undertaking, or the end of seasonal work, or the setting up of special employment for a worker represented 25%, and the reasons related to incentives reached 9.4%. As for the other reasons, they varied from being social, personal, health, marriage, and retirement, amounting to 32.5%. It is to be noted that such figures have indicated a clear rise in the total number of end of service cases, and the increase in the percentage of cases related to working conditions and the nature of work. If the increase continues to rise in 2010, it will be an indicator to a real problem in that respect, and a deterioration of the problem reflected in the lack of

special plans and programmes aimed to ensure finding jobs to the unemployed, and the non application to unemployment benefits especially if we realize that there is a clear increase in long term unemployment (one year or more) reaching 34.9% of the total number of unemployed in 2009, while in 2008, it reached only 19.5%.

1.4 Observing international labour standards

Since joining the ILO in 1956, Jordan has ratified 24 Conventions of the International Labour Conventions, seven of which are eight core Conventions. It has not ratified the Termination of Employment Convention, 1982 (No. 158). However, from the legislative aspect at least, and as we shall see later on, there are several legal texts mentioned in the Labour Code which are close to the requirements of international labour standards set out in the abovementioned Convention, and Recommendation No. 166 especially in light of the important amendments which occurred to the law in 2008 and 2010. In spite of the above, there are several subjects, which require being resolved at the level of legislation, or at the practical or legal application levels. In view of the non ratification of this Convention, the ILO supervisory bodies have not made any reports, or observations on the extent of application by the Kingdom of standards, and the provisions contained therein.

2. Scope of applying the Labour Code

The Labour Code includes sections which cover salaried persons working with an employer, under his supervision, and management. Until 2008, the Labour Code had exempted from its provisions agricultural workers except for those whom the Council of Ministers decided to cover by a special regulation such as domestic workers, until they were covered by virtue of the amended Act No. 48 of 2008. Non Jordanian workers in those two sectors represent the majority, while only 2.8% of Jordanians, out of the total number of Jordanian workers, work in agriculture against 26.74% of non Jordanian workers who work in agriculture (the total number of non Jordanian workers in the Kingdom totalled 335 708 male and female workers in 2009, representing 23.9% of the size of the labour force). As for the domestic sector, Asian workers (from Indonesia, the Philippines, and Sri Lanka) represent about 51, 689 workers, 50, 043 of whom are women, according to

the statistics of the Ministry of Labour. It is to be noted here that Jordanians are not attracted to this occupation.

2.1 Categories exempted from the Labour Code

In light of the abovementioned amendment, the categories which remained outside the coverage of the provisions of the Labour Code is the category of employees in the public sector, who are prescribed by other regulations including the employees of the civil service who are prescribed by the Civil Service Code which includes better conditions such as job stability, and the prohibition of end of employees' service unless it is in limited cases such as reaching the retirement age. The number of employees in the public sector reached 462 896 representing 37.9% of the size of the labour force employed in the Kingdom. This number includes employees in all Government and semi Government bodies, and employees in the armed forces, and public security, whether they are civilians or non civilians, including 163,566 employees prescribed by the provisions of the Civil Service Code.

Although the Civil Service Code has authorized termination of employment of employees for other reasons other than reaching the retirement age such as unjustified absence, or the rendering of a decision against a worker in a misdemeanour, or felony which jeopardizes morals, or honour because of the restructuring of the undertaking at which the worker is employed. It is to be stressed here that recourse to such acts occurs only in very limited cases. This constitutes one reason which encourages many Jordanians to prefer working in the public sector even if wages and privileges are limited therein, or may even be lower than wages earned by workers in the private sector. In spite of the reduced rate of end of service in Government jobs, the rate of end of service has undergone a relative change in the past years, as it rose from 1.76% of the number of employees in 1995 to 3.75% in 2009. This is explained by Government's policy in reducing the rate of employment in the Government sector, and directing jobs seekers to jobs created by the private sector. On one occasion, the Government gave attractive incentives to any person who agrees to ending his/her service in specific cases. The reasons for end of service in that sector, according to the numbers given by the Civil Service Diwan lie in the retirement age, represent more than half of end of service cases. The service of 8, 343 employees was ended in 2008, 52% of whom reached the age of retirement, which was a marked increase than the

rate in 2007, during which the cases of retirement reached 44% of the total number of persons whose service ended. As for the other reasons, they were concentrated in resignation, or the loss of a job due to absence, or interruption from work.

2.2 Scope of application with respect to type of contract

The Labour Code includes labour relationships in which a worker earns a wage in return for work, regardless of whether the relationship is regulated by virtue of a contract for a specified period of time, or for an unspecified period of time, casual or any other form of contract. If the work is unpaid such as the case of a volunteer, or a person working with his/her family without a salary, the labour relationship shall not be prescribed by the Labour Code. The law includes different rules with respect to termination of employment between a contract for a specified period of time, and a contract for an unspecified period of time. This shall be made clear subsequently as a worker with a contract for a specified period of time is offered less protection than a worker with a contract of an unspecified period of time. At the same time, the law does not include any text which prohibits or limits having a contract of an unspecified period of time. In spite of the lack of clear figures on the number of workers employed by virtue of contacts for a specified period of time, one can identify the largest group employed by virtue of this type of contract, represented in the following categories:

1) The category of non Jordanian workers numbered 335,708, representing 23.9% of the size of the labour force in the Kingdom. The law sets down a condition for the employment of non Jordanian workers, which requires the agreement of the Ministry of Labour and the issuing of a work permit for one year, renewable with a new approval by the Ministry. This means that by provision, a non Jordanian worker has to work with a contract for a specified period of time. It is for this purpose that the Ministry of Labour has drafted a model contract, which is considered to be an indispensible document, to be submitted before succeeding in obtaining or renewing a work permit.
2) The category of employees engaged in private education as the owners of private schools require the signing of contracts for a specified period of time by the 50 000 employees working with them. They are contracts which have the same model, set down in agreement between the Ministry

of Labour, the Ministry of Education, the Union of Private School Owners, and the Union of Employees in Private Education.

2.3. Scope of application with respect to type of undertaking and nature of work

The Labour Code includes provisions on all undertakings in the private sector, on employers and workers, regardless of the size of the undertaking whether small or big; officially registered or not registered; regular or irregular; as long as workers are employed. Though such categories are prescribed by this law, there are many difficulties in monitoring unregistered undertakings or irregular ones especially the extent of conformity of the conditions of employment with the provisions of the Labour Code, and to ensure that workers obtain their rights especially in light of the reduced number of labour inspectors, and the lack of a computerized system on labour inspection activities.

The figures indicated by the Public Statistics Department in 2009 reveal that there were 1,538 unsalaried employees representing 0.1% of the total number of persons employed, and that there were 6 335 persons employed in families without a salary representing 0.5% of the total number of employed persons. Furthermore, salaried workers represent 83.4% of the size of employed persons, 6% of whom are employed in the informal sector. As for self employed workers, they represent 9.1%, and the provisions of the Labour Code do not provide for any of the above categories mentioned above, except for salaried workers in the formal and informal sectors.

Some experts indicate that some tasks which may be classified as being under the informal sector represent a percentage which exceeds the figures of the Public Statistics Department, and that their contribution in the GDP varies between 20 to 25% and that the majority of employees lack the minimum level of the main workers rights besides the poor level of employees training and rehabilitation (unskilled manpower). This includes different tasks such as domestic work, repair, different services such as transport, trade and real estate mediation, irregular trade such as street selling, street vendors, and private tuition. It also includes family members who are unsalaried workers, and other types of tasks which are not carried out through economic units which are not registered with official bodies such as " the El Feyneeq Centre

for Economic and Information Studies"- September 2010."

3. Relevant legal provisions

3.1 Contract of employment for a specified period of time

This is a contract which is defined either by a specified period of time, or by performing specific work. It ends with the end of its duration in the first case and on finishing the work for which there was a contract in the second case, such as agreeing on work, say in finishing a specific building. The contract in such a case ends with the completion of the building (Decision of the Court of Cassation No. 108/64). Contracts for a specified period of time include both a seasonal contract of employment in a specific season, such as during the summer; winter; tourism seasons; or during the fruit picking season. Section 806 of the Civil Code specifies that a contract for a specified period of time does not exceed five years. If a contract is concluded for a longer period, it shall be limited automatically to a period of five years only. The law does not set any restrictions on resorting or reduces resorting to contracts for a specified period of time as it leaves both parties free to select the type of contract they see suitable; whether it is a contract for a specified period of time or for an unspecified period of time.

A contract for a specified period of time may be renewed for consecutive periods with the agreement of both parties. The law does not require a specific form for renewal. Renewal may be done with a new agreement between both parties, in writing or verbally, or by prior consent on its automatic renewal as soon as its period ends (Decision No. 88/461 of the Court of Cassation). If this condition does not exist, and both parties continue to carry out the contract in spite of the end of its duration, the contract shall automatically by provision be transformed into a contract for an unspecified period of time (section 809 of the Civil Code, and section 15 of the Labour Code). To this effect, the Court of Cassation rendered its decision no. 200/674 which states that: "Renewing a contract of employment for a specified period of time with another written contract does not render the contract a contract for an unspecified period of time. However, if both parties to the contract continue to fulfil it after the end of its duration, the employment relationship becomes for an unspecified period of time.

In practice, one can see that there are many contracts for a specified period of time which are renewed several times and for consecutive periods; one period may total several decades. In spite of this, contracts remain for a specified period of time from the legal viewpoint as some employers resort to this for two reasons; first, an employer is keen on maintaining his freedom in deciding not to renew the contract at any time, and to end the relationship with a specific worker; second, an employer may try to avoid paying the end of service bonus equivalent to a one month's salary for each year in service, regardless of the reason for the end of service. By virtue of the law, an employer is bound to pay such a bonus to workers employed with contracts for an unspecified period of time, and who are not covered by the social security law when their service ends. This issue was addressed through amending section 32 of the Labour Code by virtue of the amending Act No. 26, which entered in force as of 15 July 2010. The latter specifies that contracts of employment of a specified period of time include the right to obtain the end of service bonus regardless of the period of service on the condition that the effective period of absence between the day on which the contract ends and its renewal does not exceed sixty days. Besides, the Public Agency for Social Security has started to implement a draft to include all workers at undertakings employing less than five workers. It is expected to include all the regions of the Kingdom by the end of 2011 (the Act on Social Security does not include workers at undertakings which employ less than five workers).

Some employers seek to oblige workers to agree to change their contracts from contracts for an unspecified period of time to contracts for a specified period of time. Here, the Ministry of Labour, and labour inspectors intervene to stop this, if workers complain, on the basis that changing the terms of contracts must be done on the free will of workers, and not under threat, or under the threat of termination of employment. However, if a worker yields to such pressures, and signs a contract for a specified period of time, the burden of proving that there was coercion, and to nullify the new contract should be made before regular courts; which is an extremely difficult matter.

3.2. Contracts of employment for an unspecified period of time

If a contract of employment is not for a specified period of time, or does not require the completion of a specific task, it shall be considered as a contract

for an unspecified period of time. In such a case, the contract ends with the worker's death, or disability upon a medical report issued by a medical source certified by the Minister of Labour (section 21 of the Labour Code), and the medical committees attached to the Ministry of Health and the committees of the Public Agency for Social Security which were specifically set up for that purpose. A new reason was added to end a contract for an unspecified period of time by virtue of the amending Act No. 26 which is currently in force as of 15 July 2010, which is a worker's reaching the retirement age; 60 years old for men and 62 years old for women, by virtue of the Social Security Act. Unless both parties to the contract agree that such a reason is not valid (section 21 d of the Labour Code), a worker is entitled in any case to his/her rights for end of service, and which is reflected in an end of service bonus granted to workers who are not covered by social security, equivalent to at least one month's salary for each year spent in service and the remaining period of the worker's annual holidays, any wages, or wages of overtime work, which was accumulated to the worker during his/her service.

3.3 Notice for termination of a contract of employment

Section 23 of the Labour Code obliges both the employer and worker if either wishes to end the contract for an unspecified period of time to notify the other party in writing within a minimum of one month before the end of the contract. The notice period is considered an effective period of service for the worker, to which all the legal conditions of employment apply. If the worker gives the notice, he/she shall be required to continue working for the entire month. If the employer gives the notice, the worker shall be exempted from continuing work in the last seven days of the notice, and the employer, if he considers it necessary, shall exempt the worker from continuing to work for the full month. However, in any case, a worker is entitled to his/her wages for the full month. If the worker's service is terminated without addressing a notice, he shall receive compensation for that omission, by paying wages for one month, in lieu of the notice.

Here, it is to be noted that the condition of the notice applies only to the case of contracts of employment for an unspecified period of time, and does not include contracts for a specified period of time, as they end only when their period ends. It is also worth noting that when an employer addresses a notice to a worker, this does not mean that the procedures taken by an

employer for termination of employment are sound procedures; unless they are based on legal reasons, authorized by law for the termination of employment of a worker, as set out in the law, as we shall see later on.

3.4 Right of employers to terminate contracts for legitimate reasons

Termination of a contract during probationary period

Section 35 of the Labour Code authorized an employer to employ a worker for a maximum period of three months under probation in order to verify his/her efficiency, and capacities to fulfil the work required of him/her. An employer has the right to terminate the employment of a worker during that period, without notice or a bonus. However, if the worker continues at his/her work after the end of the probationary period, the contract shall be considered a contract of employment for an unspecified period of time. The probationary period may not in any case be extended or renewed for another period whatever may be the reason. The probationary period shall be counted in the worker's service, and for which he shall obtain the regular worker's rights. Probationary employment shall not include contracts for a specified period of time as the Court of Cassation specified in its decision No. 2002/2732 the following: "Termination of employment during the probationary period shall apply only to a contract of employment for an unspecified period of time, and shall not apply to contracts of employment for a specified period of time, even if the condition of probation is included therein."

Termination of a contract of employment for reasons related to a worker's conduct

Section 28 of the Labour Code provides exhaustively for cases in which an employer may terminate immediately, and without notice, a contract of employment because of a worker's conduct as follows:

(a) If a worker assumes another personality, or another identity, or submits forged certificates or documents for his self interest, or to harm others;

(b) If a worker does not meet the obligations arising from a contract of

employment;

(c) If a worker commits an error causing a serious material loss for an employer on the condition that the latter notifies the competent authority or authorities of the accident within five days as of the day on which he became aware of its occurrence. The law does not include a specific period of time during which an employer is required to take measures for termination of employment. However, this matter is considered one of the issues decided upon by the court, in case of conflict in its respect.

(d) If a worker violates the internal statutes of an undertaking including occupational safety, and the safety of workers in spite of a warning in writing sent twice. In this case, the law sets down a condition that the internal statutes shall be certified by the Ministry of Labour. The Court of Cassation, in its decision No. 98/1947 specifies that: "If an employer does not observe the condition of prior warning in writing twice before dismissal, the employer's termination of a worker's employment because of his bad conduct and his flouting administrative instructions shall be considered a violation of the law." Based on section 48 of the law, an employer shall be required to give a worker the opportunity to hear his/her testimony in the infringements attributed to him/her, and that no penalty may be imposed against a worker after the elapse of fifteen days as of the day on which it was committed. A worker may also object to the set penalty, with a labour inspector, within one week as of the day on which he/she was notified of the penalty.

(e) If a worker is absent from work without a legitimate reason for more than twenty interrupted days in one year, or more than ten continuous days provided that dismissal is preceded by a written warning sent by registered mail to his/her address. It shall be published in one of the local dailies once. But if absence is due to a force majeure, outside the worker's control, such as illness, detention, or due to climate change, consequently, the employer is not entitled to dismiss the worker. At the same time, the legitimate excuse for absence is considered to be a legal issue subject to monitoring by the competent authority.

(f) If a worker divulges the secrets related to his/her work;

(g) If a worker is convicted by a court on the grounds of a felony or a misdemeanour which jeopardises honour and public morals;

(h) If a worker is found at work in a blatant drunken state or under the influence of a psychotropic substance or product, or has committed an act which violates public decency at the workplace;

(i) If a worker hits or reviles an employer, a responsible director, one of the chiefs, any worker, or any other person during work, or because of work.

Such cases include all types of contracts whether they are for a specified period of time, or for an unspecified period of time. In such cases, an employer shall not compensate a worker in any form for his dismissal. However, the worker remains to be entitled to all the regular workers' rights related to termination.

Termination or suspension of a contract of employment for economic or technical reasons

Section 31 of the Labour Code authorized an employer to terminate the contract of employment of all or some of his employees or their suspension temporarily for economic or technical reasons such as the downsizing of work; replacing a production system with another provided the Minister of Labour is notified, with the justifications. Consequently, a tripartite committee set up by the Minister of Labour, composed of equal numbers of representatives on behalf of employers, workers, and the Government shall examine the request to verify the soundness of procedures, and submit its recommendations to the Minister within 15 days. In light of the above, the Minister shall issue his decision approving the measures taken by an employer or their re-examination within seven days. The Minister's decision may be appealed against before the Appeal Court by the aggrieved party whether it is a worker or an employer within a maximum period of ten days. The Appeal Court shall decide on the appeal within a maximum period of one month. If the work resumes normally at an employer's within one year, workers whose contracts were set to be terminated shall have the priority to return to work. Besides, a worker whose contract of employment was suspended shall be entitled to leave work without notice while retaining all his/her legal rights for his/her end of service.

In such procedures, the law did not distinguish between small or large undertakings or between cases of termination of employment. On the contrary, the law requires the adoption of the abovementioned procedures in all cases of termination of employment for economic or technical reasons. By virtue of the amending Act No. 26 of 2010, an employer is under the obligation to notify before taking any measures against workers. In other words, an employer shall be required to await the outcome of the committee's deliberations and the Minister's decision before taking the measure of terminating a worker's employment or of suspending a contract.

The committee is composed of one representative on behalf of the Chamber of Industry, a representative on behalf of the Federation of Workers, and a representative on behalf of the Ministry of Labour. Usually, the committee attempts to reduce any incurred damages if there is evidence that there were justified reasons for the termination of a worker's employment, including reaching a friendly agreement with an employer to pay additional sums to workers whose services shall be terminated equivalent to the wages for one month, and sometimes the wages of several months, although there is no text thereon in the law. The number of enterprises which request termination of contracts of employment for economic or technical reasons diminishes or rises from one year to the next, though in a limited manner, as indicated by the figures given by the Ministry of Labour.

Year	No. of undertakings	No. of workers for whom agreement Was reached for termination of service
2004	32	877
2005	17	1078
2007	11	300
2008	20	489
2009	32	1052
2010		
Until end of August	28	546

However, there are non official bodies which indicate that in 2009, there was termination of employment outside the aforementioned procedures of

approximately 2 250 Jordanian workers and 6 900 non Jordanian workers; the majority of whom work in the manufacture of apparel in qualified industrial zones- QIZ- (Report of the Jordanian Workers' Observatory-February 2010). Some experts believe that there is an existing link between cases of termination and the world financial crisis especially in the apparel manufacture, and the construction sectors in which the operation of workers dismissal shall be reduced as a result of positive growth forecasts.

With respect to the implementation of the special item mentioned in section 31 related to ensuring giving a priority to workers whose termination of service was decided upon, to return to work in the case of a normal resumption of work within one year as of the day on which their service ended. So far, there is no mechanism to follow up on this matter by the Ministry of Labour, by labour inspectors or by any other body such as trade unions, unless it is upon the demand of workers to return to work because the undertaking which terminated their employment has resumed hiring others. Such cases are not computerized, nor are they mentioned in special records held by the Ministry of Labour, so as to enable referring back to them.

It is worth noting here that section 31 does not include employees holding contracts for an unspecified period of time, which means that an employer may not base his decision for termination or suspension of contracts for a specified period of time on the basis of economic or technical reasons. On the contrary, he is required to observe the contract for a specified period of time to its end. If he terminates the contract before its end, he shall be required to pay the worker's full wages for the remaining period of the contract, as section 26 (a) does not authorize an employer to terminate a contract for a specified period of time before its end unless this is specified in cases set out in the afore-mentioned section 28. These cases relate to a worker's conduct which was in violation of the law. Consequently, non Jordanian workers who work also on contracts for a specified period of time are not prescribed by this section. In light of the above, when there is an economic or technical crisis, at an undertaking which employs non Jordanian workers, the Ministry of Labour intervenes by using other measures other than the provision of section 31 so as to oblige an employer to continue observing a contract of employment to the end, or to pay the wages due to workers for the remaining period, and workers' travel expenses to their countries of origin. In case of termination of large numbers of workers, the

Ministry also undertakes to agree with other undertakings to absorb them especially in the case of non Jordanian workers, and to provide suitable accommodation during the interruption of work, free food as well as provide assistance to any person who wishes to return to his country by offering the travel expenses. Such measures are funded by a special fund for such cases, to which the Government and employers contribute. For example, in 2009, the Ministry provided alternative employment to 814 non Jordanian workers at undertakings other than those at which they worked, because of problems besetting such undertakings, and interruption of work therein in addition to securing the travel of 1 690 workers who chose to return to their countries.

3.5 Right of workers to end their contracts for legitimate reasons

The Labour Code provides that a worker may end his/her contract for an unspecified period of time by himself/herself at any time he/she sees fit without giving any reasons, and without waiting for an employer's approval. The law did not set any restrictions on a worker if he wishes to end his contract except for sending a notice to his/her employer at least one month prior to the request or to pay the notice allowance to his/her employer if the notice was not sent. As for contracts for a specified period of time, a worker shall be required to continue his/her work until the end of the contract. If the worker leaves work for an unjustified reason before the end of the contract, the employer may bring proceedings against the worker before a regular court to claim compensation for interruption or any damages incurred as a result thereof, if this occurs, provided the value of the compensation does not exceed half the wages of the remaining period of the contract of employment.

Section 29 of the Labour Code provides that a worker may in specific cases leave work without notice, and can claim compensation from an employer for any interruption and damages that may have been incurred, as a result thereof. Such cases are as follows:

1. A worker's employment in work which is totally different from the work agreed upon by virtue of the contract of employment;
2. A worker's employment in a manner which requires a change in his/her permanent residence unless it is specified otherwise in the contract of employment;
3. A worker's transfer to another work which at a lower level than the

one agreed upon originally;
4. Reduced wages;
5. If a medical certificate issued by a medial authority proves that a worker's health shall be jeopardized if he /she continues in his/her work;
6. If an employer or his representative hits, humiliates or commits any sexual form of aggression which is sanctioned against a worker during work, or due to work, according to regulations which are currently in force. If the Minister learns that an employer or his representative had hit, humiliated or committed any sexual form of aggression against workers employed with him, he may decide to close down the undertaking for the period he sees suitable;
7. If an employer fails to implement any provision of the Labour Code, or any regulation issued in virtue thereof, provided that he had received notice from a competent authority at the Ministry, requesting him to comply with such provisions.

3.6 Right of employers to terminate workers' contracts for unlawful reasons

Cases in which the law prohibits the termination of a worker

In light of the abovementioned sections 21, 28 and 31, the termination of employment of a worker for any reason other than those specified shall be considered unjust dismissal which requires compensation, or making a worker return to his/her work. Section 27 mentions other reasons in which an employer is prohibited from dismissing a worker, and giving notice for the termination of service; which are as follows:

1. A working woman who is pregnant as of the sixth month of her pregnancy or during maternity leave;
2. A worker who is required to do his military service, or on reserve during his service;
3. A worker during his annual holidays, sick leave, or leave granted for the purpose of workers culture, pilgrimage, or during the leave which is agreed upon between the parties for trade union work, or to enrol at a recognized college, institute or university.

Consequently, the dismissal of a worker or giving him notice for termination of his employment in any of the above cases is considered an unlawful act even if it is based on any of the reasons authorized by law in normal cases for ending a worker's service including the reasons mentioned in section 28. However, the prohibition of dismissal in such cases does not apply if dismissal is for economic or technical reasons based on section 31.

Change in employer: Section 16 of the law considers that the contract continues, and is in force with the same conditions in the case of a change in employer because of the sale of the project, or a worker's transfer to another employer for any other reason; in other words, the change in employer does not constitute a reason for the termination of employment of any employee at an undertaking.

Partial disability as a result of injury at work: If a worker suffers an injury at work which results in partial permanent disability which does not stop him from undertaking work, except for the work he previously carried out, section 14 of the law obliges an employer to employ him in another job which suits his condition if there is such work, and with a salary which is suitable for the new work. In other words, a worker may not be dismissed in such a case if there is an alternative job available.

Practising union activity: Section 108 prohibits the dismissal of a representative of trade unions, or taking any measures against the worker on account of his/her union activity, under penalty of invalidity. This text is a new insertion by virtue of the amending Act which entered in force on 15 July 2010.

During the examination of a collective labour conflict: Section 132 prohibits the dismissal of a worker during the examination of a collective labour conflict without obtaining the written authorization of the body which seeks to resolve the conflict (conciliation representative, conciliation council, or workers' court).

A worker who seeks to assume the function of a union representative: The law does not specify special protection for a person seeking to assume the function of a workers' representative as it is the case for a person who effectively fulfils the function of a trade union representative. However,

dismissal on account of a worker seeking to assume the function of a workers' representative is considered unfair dismissal because it is not one of the cases mentioned exhaustively by law for the dismissal of workers. The case also applies if dismissal is based on the grounds of race, colour, sex, social status, family responsibilities, work, religion, political opinion, national extraction, or social origin.

Reasons related to the submission of a complaint or demand: Section 24 of the law prohibits an employer from dismissing a worker or to take any disciplinary measure against him/her for reasons related to complaints and demands submitted by a worker to the competent authorities with respect to the application of the Labour Code.

3.7 Results arising from unlawful dismissal: Section 25 of the law specifies the power of examining workers' lawsuits related to unfair dismissal of regular courts only as the examination of a lawsuit requires to be done in accordance with the judicial procedures recognized in the Kingdom except for workers' cases which are considered to be urgent cases which require quick procedures in taking a decision in their regard, as set out in section 137 of the Labour Code which obliges a delay of three months for a decision to be taken on workers' lawsuits. Workers' lawsuits which are brought before such courts are exempted from judicial fees including the fees of implementing the sentences rendered by such courts.

Although section 138 (b) of the same law authorizes the hearing of the lawsuit on the demand for workers' rights if it is initiated within a maximum period of two years as of the day on which the claimed right appeared, section 25 which provides for the lawsuit related to unfair dismissal sets the condition that the lawsuit be initiated within sixty days as of the day of dismissal. However, the Court of Cassation had another viewpoint as rendered in its Decisions no. 98/793 of 8 June 1999 and no. 97/2113 of 29 December 1997 which state that when the law sets down the delay of sixty days for the registration of the hearing of the lawsuit related to unfair dismissal, this means that the court may reinstate the worker in the case of initiating the lawsuit within sixty days as of the day of dismissal, and that if he does not observe this delay, the court may not order a worker's reinstatement, but continues to hear his/her lawsuit if it was initiated before the elapse of two years as of the day of dismissal, based on section 138 (b)

which provides for rendering a decision on whether the dismissal was unfair, and whether the worker is to receive legal compensation.

Although the Labour Code has not specified the authority which is responsible for proving the occurrence of unfair dismissal at work, Jordanian courts have decided this issue through their repeated interpretations that the burden of proof is the employer's responsibility. Thus, one can refer to the decision rendered by the Court of Cassation no. 99/1067 which mentions that "Although the person who claims the occurrence of the injustice is under the obligation of proving the act, the person who is the employer, who claims that dismissal was lawful, and was not unfair, shall be responsible for proving the lawfulness of the dismissal in accordance with the legal provisions..), In this context, we refer you to the Court of Cassation's Decision no. 98/2034. In any case, the court which examines the lawsuit shall take the necessary measures to reach the truth in accordance with the mechanisms specified in the Act on the Procedures of Civil Trials, as section 25 of the Labour Code provides for the role of the court in lawsuits on unfair dismissal, which is to decide for compensation in favour of a worker, or decide his return to work if it is proven that there was unfair dismissal. The application of the court's competence in deciding on the worker's reinstatement is considered to be rare in view of the court's conviction that a worker's reinstatement may lead to a repeated dismissal or the occurrence of a disturbance in the employment relationship between the parties, which conflicts with the interests of both.

As for compensation, the sum has undergone a radical change by virtue of the amending Act No. 26 of 2010, by virtue of which the calculation for the compensation with respect to unfair dismissal is made on the basis of the period of service, which is equivalent to the salary of half a month for each year of service, at a minimum wage of two months. Compensation in this case shall be calculated on the basis of the last value of wages earned by a worker. Before that amendment, the court was empowered to decide on wages from three months to six months without being restricted by a mechanism or specific rules to determine the value of compensation. This amendment is likely to diminish the numbers of lawsuits brought before the courts to demand compensation for unfair dismissal because quite a large percentage of such lawsuits are instituted because both parties are unable to reach an agreement on the sum of compensation due to a worker who has been dismissed, and not on the incident of the dismissal itself o whether it

constitutes unfairness or not. Recently, several cases of dismissal have been settled directly between a worker and an employer, with respect to the payment of a compensation, whose value is specified in the law, because there is no need to resort to the court. From another viewpoint, this may encourage employers to exaggerate in cases of dismissal in return for granting a dismissed worker the legal compensation, and consequently, an employer would have fulfilled his obligations, without being forced to enter into a legal conflict with a worker.

Whether a worker's dismissal is unfair or not, he/she shall be entitled to all his/her other rights resulting from end of service including the notice period if termination of service was done without giving notice, unless it is in cases in which the law exempts an employer from giving notice (cases specified in section 28); the end of service bonus to workers not prescribed by the provisions of social insurance; the entitlements of old age or disability compensation to workers covered by the provisions of social insurance, in addition to a certificate of service issued by an employer to a worker which includes information specified in section 30 of the Labour Code; the information required includes the worker's name, date on which he/she has started and finished work; and the work carried out by the worker. It is worth noting here that the above mentioned section 25 only includes employees hired by virtue of contracts for an unspecified period of time. As for contracts for a specified period of time, a worker shall be entitled to his/her full wages for the remaining period of the contract of employment, in the case of termination of service, without justification, before the end of the contract period.

With respect to a worker who is a trade union representative, section 108 considers that a worker's dismissal on the grounds of his/her practising trade union activity is an invalid procedure, and that if it occurs, the labour inspector shall be under the obligation to address a warning to such an employer so as to remedy the violation within a maximum period of seven days. If the employer does not respond, the matter shall be submitted to the competent court to punish the employer for his violation of the provisions of the law by the penalty specified in section 139, which is a fine varying from 50 to 100 dinars, which is not a dissuasive penalty with respect to its sum. At the same time, the worker shall claim compensation for any interruption and damages incurred. Moreover, the court is entitled to render a decision which

specifies a worker's reinstatement, and decides on the payment of wages for the entire period of interruption from work. If the worker is unable to return to work for reasons related to an employer, the court shall decide on an additional compensation equivalent to the wages of 6-12 months besides the compensation for unfair dismissal due to the worker, by virtue of section 25 of the law.

4. Practical application of the provisions of labour regulations

The Labour Code has specified two methods for monitoring the application of its provisions. The first is monitoring by labour inspectors, and the second is judicial; which is the examination of individual conflicts between workers and employers. With respect to the issue of dismissal from work, and the rights resulting from such an act, section 25 of the law provides for the power to examine such a matter including the case of a labour inspector who can only direct both parties to bring their conflict to a competent court, if there is a conflict on the issue of dismissal from work.

4.1 Workers lawsuits

Although section 137 of the law specifies that workers lawsuits are exempted from fees in all phases, and that a decision in their regard should be rendered without undue delay within a maximum period of three months, however, in practice, many lawsuits take a longer time because of the nature of the conflict, and the requested information so as to decide on the lawsuit. This in turn causes workers to avoid as much as possible taking legal action before the court for several reasons:

1. Lengthy procedures for the examination of a lawsuit in spite of the numerous measures taken by the Ministry of Justice to expedite taking a decision on a lawsuit, and the allocation of specialized judges to examine workers lawsuits. However, taking a decision on a lawsuit still takes a long time in the majority of cases, which may take from several months to more than a year in addition to the long phases of appeal. Besides, the Ministry of Justice does not provide any clear figures on this matter although lengthy procedures still constitute a constant problem to workers and lawyers.
2. Section 9 of the law governing reconciliation courts sets the condition of

giving a proxy to a lawyer in lawsuits including workers' lawsuits, when their value exceeds 1000 dinars. In other words, a worker may not follow up on his/her lawsuit by himself/herself if its value exceeds that sum, which entails financial expenses, which a worker may not be able to assume. Furthermore, even if the lawsuit is less than this sum, following up on an unfair dismissal lawsuit requires, from time to time, specialized legal expertise and knowledge, which is not always within a worker's grasp.

3. Section 137 of the Labour Code which specifies the exemption of fees in workers' lawsuits was amended by virtue of the amending Act No. 26 of 2010 which entered in force on 15 July 2010. By virtue of the amendment, a worker whose lawsuit was dropped more than once, say for cause of absence, is required to pay the fees in full for the lawsuit, until its renewal.

In light of the above, a worker who is obliged to resort to court does not enjoy any support from any body, whether financially or legal or even at minimum in the possibility of obtaining the necessary counsel during his exposure to a conflict which he may be confronting for the first time, against an employer who has all the necessary means in most cases.

It is worth mentioning here that by virtue of Act No. 12 of 2006 which relates to reconciliation for conflict resolution, any conflict which is before a reconciliation court may be subject to mediation upon the judge's decision, based on the agreement of both parties, whose aim is to expedite ending the conflict, and to find a satisfactory solution to both parties through flexible procedures which safeguard relationships between opposing parties. Legally, this Act and these procedures include workers lawsuits including lawsuits on unfair dismissal although workers and their lawyers prefer not to resort to this means to resolve the conflict for several reasons; the most important of which, is that mediation is aimed at achieving a solution which satisfies both parties to the conflict. In other words, this means that there are concessions to be made by each party so as to achieve that aim; a matter which contradicts the very nature of demanding workers' rights, which requires avoiding any pressures put on a worker so as to give up part or a whole of his rights even if this is through friendly means in addition to the failure in mediation, and the return to legal procedures, which delay the resolution of a conflict, and enail additional time to do so.

According to the figures given by the Ministry of Justice, in 2008, there were 8 837 lawsuits out of 13 492 lawsuits examined by the courts for which there was a sentence. There were 7 960 lawsuits initiated during 2008, and 5 532 lawsuits were initiated before 2008, and which continued to be examined in the same year. In 2009, there were 7 993 lawsuits for which the courts rendered a sentence, out of 12 934 lawsuits examined by the courts, including 8 279 lawsuits which were initiated during the same year and 4 655 lawsuits which were initiated before 2009.

The figures of the Ministry of Justice do not include a table on the average period of examination in the case of workers' lawsuits, though it is clear that the abovementioned figures indicate that ether are many lawsuits which are examined for numerous years. The statistics do not include either the types of workers' lawsuits, and the percentage of lawsuits related to dismissal, and the reasons for dismissal. However, several judges specialized in examining workers' lawsuits have demonstrated that there is a majority of lawsuits involving workers, representing about 90% of all lawsuits on dismissal from work. The Ministry of Justice does not have either any figures on the percentage of lawsuits in which the decision rendered was in favour of workers, or those which were rejected. According to the information mentioned above, lawsuits which are examined through mediation are extremely rare, as they did not exceed 297 lawsuits during 2009.

4.2 Role of labour inspectors

In spite of the limited mandate of the labour inspector with respect to unfair dismissal, he is empowered to carry out some other tasks which relate to the conditions and safety at the workplace, to verify the extent of compliance by employers to meet workers' rights, and check the sound application of the internal statutes of an undertaking, and the list of disciplinary sanctions set out in sections 55 and 48 of the Act, which are all closely tied to termination of service, in spite of the fact that there are a number of obstacles which impede rendering an inspector's role more effective such as the following:

a) Although the Labour Code has provided since 2008 for agricultural workers and domestic workers, no effective measures on the ground have been taken so far to render the role of inspection more effective in such

sectors or to train and rehabilitate specialized inspectors in view of the specificity of the working conditions therein.

b) Lack of sufficient and computerized data for the work of inspection which hinders the role played by an inspector in undertaking organized visits to undertakings, numbering more than 170 000, and in a prior preparation of such visits with respect to information, and data related to the undertaking which he intends to visit, and to certify such visits, and their results, on the computer, for easy reference, as well as establish a database on inspection, including a database on the informal sector.
c) Lack of a computerized link either electronically or in any other means between labour inspectors and other relevant official institutions especially the Ministries of Industry and Trade, the Great Amman Secretariat, the municipalities, the Ministry of Health so as to benefit from available data.
d) Paucity of labour inspectors who number 125 male and female labour inspectors in spite of the numerous attempts deployed by the Government to increase their numbers so as to match the size of the labour market.

For the purpose of developing inspection work and rendering it more effective, a hotline service was upgraded, so as to receive complaints around the clock, and whose employees master the different workers' languages. In 2009, there were 1,019 complaints; 85% of which were resolved, while the number of inspection visits undertaken by inspectors during the same year reached 48 640. The inspectors received 3, 504 complaints, and made 15, 192 citations, which were referred to the courts, and gave 1,794 warnings. It is worth noting that the largest majority of infringements relate to wages, reduced wages, delayed payment, and minimum wages, amounting to more than two thirds of the infringements. Matters related to dismissal from work constitute a very small part of the duties and efforts made by labour inspectors.

During field visits carried out to workplaces, labour inspectors endeavour to raise the awareness of employers with respect to the provisions of the Labour Code so as to ensure their observance of its application, and to reduce violations. However, raising the awareness of workers during such visits occurs in a limited manner in view of the nature of visits, and the presence of an employer or his representative. Until now, there is no other alternative to raising the awareness of workers of their rights especially with respect to

dismissal from work, except in an individual capacity when a worker who goes by himself/herself to the Ministry of Labour to solicit advice. Awareness campaigns are rarely carried out through mass media means or through collective meetings with workers far from employers, organized either by the Government, or by trade unions.

4.3 Working women

It is to be stressed that the size of the female labour force is greatly influenced by a woman's age, and her marriage, and that women's withdrawal from the labour market increases steadily with the increase in the number of working married women, and the increase in working women's birth rates, and although women are more regular in basic and university education, representing about 51% of students on university seats, women's unemployment is focused in the 25-39 age group, reaching 50.4% of unemployed females. Many are of the view that increased unemployment among women in that age is due to the social responsibilities shouldered by women as a result of marriage and birth, and their being forced to leave work, and to look for a job without much success, which suits their new condition, especially with respect to working hours; the availability of a nursery at the workplace; or its proximity to the place of their residence; or working from home.

Jordan's regulations on the employment of women are considered to be one of the most advanced legislation at the regional level, as the Labour Code grants women the right to full paid maternity leave whose duration is 10 weeks, and an hour for baby breast feeding per day, as of birth. The Code obliges employers employing more than 20 working women to allocate a place for their children. It also prohibits the dismissal of pregnant women as of the sixth month, or during maternity leave, and require them to refrain from entrusting women hazardous tasks, or to perform tasks which jeopardize their health. The Labour Code also provides for the treatment of employees without any discrimination between men and women on all other legal provisions. In spite of the above, the Code does not include a text which prohibits discrimination between men and women or a text which punishes such an act. Some studies refer to the existence of discrimination between men and women on a number of issues: especially appointment; the preference of employers to hiring men or unmarried women; wages and

privileges; and in promotion opportunities in addition to the cases of dismissal of a female worker on grounds of her family obligations and giving birth. Furthermore, the majority of employers do not observe the preparation of a special place for the care of working women's children, as there are no dissuasive measures taken against employers in violation.

The enforcement of the Act on Social Security shall contribute in establishing a special fund so as to cover all the expenses of maternity and breast feeding leave, which has not been done so far, although there is a text thereon in the law, and to ensure that employers do not assume the expenses on their own. It shall also help in increasing the job opportunities available to women; improve working conditions; and reduce cases of dismissal from work.

4.4 Employees in private sector education

The figures of the Ministry of Education refer to the numbers of employees working in private education institutions (schools and kindergartens) which reach 26791 male and female workers, 23484 of whom are male and female teachers; 87% of whom are women, employed by 1 068 institutions. However, the Union of Private School Owners indicate that the number is higher as it reaches about 35 000 male and female teachers, and 21 000 administrative staff, drivers and guards, employed by 1 700 institutions.

Moreover, workers in this sector encounter several problems related to their rights in addition to the issue of job stability because they work with a contract of employment for a specified period of time which is called "a consolidated contract", which is a model contract agreed upon in the past years, between the Ministry of Labour, the Ministry of Education, the Union of Private School Owners, and the General Union of Employees in Private Education which sets down the duration of work to ten months. If it is renewed for a consecutive period, it shall be for 12 months and will include the previous summer vacation for renewal. In light of the above, several schools do not renew the contracts for a consecutive year so as to avoid the payment of wages for the summer holidays. If a school wishes to employ a teacher, a new contract shall be made for a new period at the beginning of the following school year, as if it is a contract for the first time. Since women prefer to work in the educational sector, especially university graduates, they have no other choice but to accept such working conditions, because there is

no other alternative.

4.5 Persons with disabilities

The last population and housing census which includes persons with disabilities which is the census made in 2004, indicate that the total number of persons with disabilities amounts to 629 88, representing 1.2% of the population, divided under several disabilities; which is 28% (physical), 16.4% (hearing impairment), mental at 16.1%, 9.3% (visual),8.4% (head paralysis) in addition to various other disabilities13.4%. The number of persons with disabilities aged over 15 years old number 42683, 26497 of whom are men, and 16186 of whom are women. The labour force for this category numbers 8 319 persons, out of whom there are 4 973 employed persons and 3 346 unemployed. Although these figures are relatively old, they still reflect the reality of a poor employment rate of persons with disabilities as a result of several obstacles which hinder their employment. Although section 13 of the Labour Code and section 4 of the Act on Persons with Disabilities have obliged an employer who employs between 25-50 workers to employing one person with a disability. If the number of employees exceeds 50 workers, the employer is required to employ 4 % of workers with disabilities, provided the nature of work at his undertaking is suitable.

However, it is to be noted that employers' observance of these texts is poor especially in the light of a relaxed monitoring of such a compliance and because of the refusal of persons with disabilities of job opportunities or their being forced to give up jobs which they occupy for a number of reasons such as: the difficulty of mobility of a person with a disability to and from the workplace, as a result of inaccessible public roads; the lack of suitable adapted public transport services, and the necessary equipment for persons with disabilities at the workplace; and the unsuitability of the working environment, with the nature of their disabilities. Besides, they feel that employers do not wish to employ them, besides their exposure to discrimination in wages, career promotion, and privileges, as well as in appointment. Furthermore, job stability in the private sector is inexistent for them. In light of the above, many persons with disabilities look for a job in the Government as it provides them with job stability, non discrimination and adequate job opportunities. However, available job opportunities in the

public sector are not sufficient to absorb them, and on that basis, there is no other choice but to secure job opportunities for the majority of them in the private sector.

5. Supplementary protection of employment

5.1 Social insurance

The Public Agency for Social Insurance still exempts from the provisions of the Act on Social Security employees in undertakings which employ less than five workers in the majority of the Kingdom's regions by virtue of the mandate granted thereto by virtue of the law, based on the Council of Ministers, in respect of the categories covered by the law. However, the Agency has started, since 2008, on a draft which includes such a category, which is expected to apply to all the regions in the Kingdom by the end of 2011, and which shall include 150 000 new undertakings employing about 340 000 workers in addition to including self employed workers, employers, and housewives. Although section 4 of the Act on Social Security specifies the coverage of all workers prescribed by the Labour Code by the provisions of the Act on Social Security, it links at the same time the coverage of domestic workers to an Order to be issued by the Council of Ministers; which is a matter that has not so far occurred.

The number of insured persons by social security has now reached 8 35110 persons representing 49.9% only of employed persons. Furthermore, the undertakings covered represent 40% of existing undertakings. Although the Act on Social Security includes five types of insurance which are: insurance against occupational accidents; insurance for old age, disability and death; maternity insurance; insurance against unemployment, health insurance), it focused only on two types of insurance which are: insurance against occupational accidents; and insurance for old age, disability and death; and left it up to the Council of Ministers to enforce the rest of insurance at the time it sees appropriate, as none has been so far enforced.

Enforcing the insurance against unemployment and the insurance on maternity shall give a major impetus to worker protection against the dangers of end of service, as well as encourage women to enter the labour market; assist in encouraging employers to employ women; and increase the

possibility of linking job seekers, and those who lost their jobs to available jobs in a more effective manner in a shorter timeframe, thereby help reduce the period of unemployment. It is also known that the system linked to unemployment insurance normally provides to the competent authorities a precise data base on the mobility of the labour market, its development and the rest of data related to the labour force. In the last two years, the Kingdom launched a national debate on these two types of insurance which include large sectors representing different categories of society through which an agreement was reached on the need to enforce them. Collaboration was also made with the ILO in that regard, and experts were commissioned to undertake the necessary studies in this respect.

5.2 Training and employment services

In collaboration with relevant bodies in the public and private sectors, the Ministry of Labour is responsible for the regulation of the labour market, and matters related to employment. The Ministry has departments attached thereto in the different regions of the Kingdom which provide employment services, and link job seekers to available job opportunities; thus, in the first part of 2010, 7 075 job seekers found employment. The Vocational Training Agency is responsible through its various training centres in the Kingdom for training on different occupations so as to meet the need of the market, and job seekers. Thus, the number of graduate trainees reached 7 460 in 2009. There are moreover a number of projects which endeavour to train and employ job seekers in specific occupations, especially on the job training for the purpose of finding a job after the end of the training period including the National and Employment Project of the Ministry of Labour, which assumes the cost of training and 30% of the wages of the trainee paid by an employer during the training period, and the cost of transport to and from the workplace, and social security contributions. The project trained and employed 6 550 job seekers in the field of manufacture of apparel; nursing; and information technology. The project is also responsible for the implementation of what is called by the project of productive subsidiaries so as to establish 7 subsidiaries for factories in distant regions where the labour force live, so as to employ 3 340 job seekers especially women. To this end, the project provides the building free of charge to the factory for five years, and pays 30% of the worker's wages for 18 months, the cost of transport, and the social security contributions. The National Company for Training and

Employment was also set up in collaboration with the Ministry of Labour, the Jordanian armed forces, and the private sector so as to provide training and employment in the sector of construction. So far, the number of beneficiaries reached 6 781 job seekers. For its part, the Fund in support of Employment, Training, Technical and Vocational Education supports the different projects of training and employment. It is funded by employers. The funded projects trained 35 000 trainees including beneficiaries from the abovementioned projects. The Development and Employment Fund is also responsible for the funding of small and medium sized projects for poor people, and unemployed persons so as to promote in particular, private employment, and self employment in light industries and handcrafts. Thus, in the first half of 2010, the number of funded projects reached 5 689 projects, providing 6 126 job opportunities.

It is worth noting that such projects and activities are not grouped by one framework or a methodological policy which sets down the aims in a comprehensive manner and includes the future expectations of the labour market; its nature; and structure. They are not linked either by an information framework which is common and precise especially in relation to the new entrants to the labour market or to persons who lost their jobs, or in relation to mobility of labour moving in and out of the labour market, and the measurement of future needs of the markets. It is also worth noting that the numbers of beneficiaries from such projects are modest in comparison to the numbers of job seekers besides the instability of employed persons in their jobs. This has been indicated by a study made by the Ministry of Labour that a percentage of workers whose work ended in the first month of employment reached 48%, from among persons who were employed through the labour departments attached to the Ministry of Labour in 2009, and that workers who were stable in their jobs for more than 6 months reached only 12%. The reasons can be due to the following: deteriorating wages; long working hours; and distant workplaces. These are about the same reasons behind leaving work, mentioned in the figures of the Public Statistics Department. The latter indicates the unsuitability of job opportunities and their conditions to the needs of job seekers, and the lack of interest by employers in providing a suitable working environment so as to encourage workers to accept work and retain it. This may be due to the difficulties encountered by some sectors targeted by such projects including for example the manufacture of apparel which is exposed to a strong external influence which reduces the

opportunities for the marketing of its products in spite of the incentives and exemptions provided by the Government, in addition to the sector of agriculture which is characterized by its small properties, and its inability to overcome the difficulties of agricultural seasons, and the high production cost which forces it in turn, to resort to the employment of migrant labour, who accept difficult working conditions, and lower wages than those earned by Jordanian labour.

The labour market suffers a number of distortions the most important of which is the unsuitability of available job opportunities to the outputs of education and vocational training. While university graduates represent 31% of the total number of the unemployed (the percentage is much higher among women, reaching 53.8% of unemployed women), 32% of new opportunities in 2009 for example were in primary occupations. Furthermore, percentages rose markedly with respect to opting for the occupations of services and sales. While the numbers of university graduates grew especially with the increase in the numbers of official and private universities, and their prevalence. The labour market also saw a severe decrease in new job opportunities in handcrafts, in spite of the persistent efforts made to increase and encourage small and family projects, which are mostly based on special craft skills.

Moreover, the unemployment percentage is on the increase among young persons, reaching 48.8% of the total number of the unemployed in the 15-24 age group. The percentage of those who have never worked is 43%, out of the total number of the unemployed. This attests to the inefficiency of vocational counselling and guidance, and stresses the need for increasing the percentage of vocational education and linking new entrants on the labour market to rehabilitation and monitoring programmes prepared in collaboration with the private sector which includes the preparation of a new labour force, so as to suit the effective labour needs, and includes the improvement in the terms and conditions of work, so as to be attractive and accepted by workers, and help them in retaining their jobs.

Such issues are still open, without any radical solutions being examined, at a comprehensive level, for all labour sectors, in spite of the efforts deployed in this regard, including the preparation of a national employment policy with the participation of relevant bodies, and in collaboration with the ILO. In

2008, an Act was promulgated; which is the Act of the Council of Employment, Training, Technical and Vocational Education aimed at finding a structure under which all bodies working on employment, technical and vocational training may operate in accordance with a specific national strategy, and a clear method of work. Such efforts have not yet borne their fruit on the labour market.

Annexe No.1

Relevant provisions in the Labour Code

Article 21:
The work contract shall be terminated in any of the following cases:

A. If both parties have agreed on its termination.
B. If the term of the work contract has expired or the work for which the contract was concluded is completed.
C. If the employee has died, or has become unable to perform the work proven by a medical report issued by a medical authority.
D. If the worker reaches the age of retirement stipulated in the Social Security Act. However, if the parties agree otherwise.

Article 23:

A. If one of the parties has intended to terminate the unlimited period work contract, then he shall notify the other party in writing of his intention of terminating the contract before one month at least, the notification shall not be cancelled except by the approval of both parties.
B. The work contract shall remain effective throughout the notification's term. The notification's term shall be counted within the service term.
C. If the notification was provided by the employer, then the employer may exempt the employee from working during the period of notification, and the employer may bind the employee to work during that period except in the last seven days of them, the employee shall be entitled to his/her wage for the period of notification in all such cases.
D. If the notification was provided by the employee, and the employee left the work before the expiry of the notification period, then the employee shall not be entitled for a wage for the period of his/her leaving the work, and he/she shall compensate the employer for that period in equivalence to his/her wage.

Article 24:
Taking into consideration what has been stated in article (31) of this law, the employee shall not be dismissed from work, and no disciplinary procedure shall be taken against him/her for reasons related to the complaints and claims provided by the employee to the competent authorities in relation to the execution of the provisions of law.

Article 25:
If it was evident for the competent court in a lawsuit instituted by an employee during sixty days from the date of his/her dismissal that the dismissal was arbitrary

and violates the provisions of this law, then it may issue an order to the employer to return the employee to his/her original work or pay him/her compensation equivalent amount of pay a half month for every year of service, to be the minimum compensation paid two months, in addition to the notification fees and his/her other entitlements stipulated in articles (32) and (33) of this law, the compensation shall be counted on the basis of the last wage received by the employee.

Article 26:

A. If the employer has terminated the limited period work contract before the expiry of its term, or if the employee has terminated it for any of the reasons mentioned in article (29) of this law, the employee shall be entitled to all these rights and benefits stipulated in the contract, and shall be entitled to the due wages till the expiry of the remaining period of the contract unless the termination of the work contract was a dismissal by virtue of article (28) of this law.
B. If the employee has terminated the limited period work contract in cases other than those stipulated in article (29) of this law, the employer shall have the right to claim the damages arising from that termination which shall be specified by the competent court provided that the amount that the employee shall pay shall not exceed the wage of a half month for each month of the remaining period of contract.

Article 27:

A. Taking the provisions of paragraph (B) of this article into consideration, the employer shall not terminate the services of an employee, or addresses him a notification to terminate his/her services in any of the following cases:
    1. The pregnant working woman beginning from the sixth month of her pregnancy or during the maternity leave.
    2. The employee charged with the military service or the reserve service during performing that service.
    3. The employee during his/her annual, sick leaves or the leave granted to him/her for purposes of learning, pilgrimage, or during his/her leave that has been agreed upon between the parties for devotion to syndicalistic work or joining an approved institute, college, or university.
B. The employer shall be absolved from the provisions of paragraph (A) of this article if the employee was hired by another employer during any of the periods specified in that paragraph.

Article 28:

The employer may dismiss the employee without a notification in any of the following cases:

A. If the employee has assumed the identity of others or provided forged certificates or documents for the purpose of gaining benefit or harming others.
B. If the employee has not met the obligations that have been arisen from the work contract.
C. If the employee has committed a mistake that resulted in a serious financial loss for the employer provided that the employer shall notify the competent authority/ authorities of the accident during five days from the date in which the employer comes to know about it.
D. If the employee has violated the bylaw of the establishment including the conditions of the occupational and employees safety in spite of notifying him/her twice in writing.
E. If the employee was absent with no justified reason for more than intermittent twenty days during one year or more than successive ten days provided that the dismissal shall be preceded by a written notification that shall be sent in the registered mail to the employee address and published in one of the local daily newspapers once.
F. If the employee has disclosed the secrets related to work.
G. If the employee was convicted in accordance with a judicial verdict that has gained the final degree in a delict or felony violating honor and morals.
H. If he was found in drunkenness condition, affected by narcotics, or committed an act violating public morals in the place of work.
I. If the employee has assaulted the employer, in charge director, any employee, or any other person during work or because of work by beating or degradation.

Article 29:

A. The employee shall have the right to leave work with no notification while keeping his/her legal rights related to the end of service and the arising compensations of damages in any of the following cases:

1. Employing him/her in a work that is significantly different from the agreed upon work in accordance with the work contract provided that the provisions of article (17) shall be taken into consideration.
2. Employing him/her in a way that entails changing his/her permanent place of residence unless the contract has stipulated the permissibility of this.
3. Transferring him/her to another work of a lower degree than that which has been agreed upon.
4. Reducing his/her wage provided that the provisions of article (14) shall be taken into consideration.
5. If a medical report issued by a medical authority has proven that continuing his/her work will threaten his/her health.

6. If the employer or his representative assaulted him during work by beating or degradation or any form of sexual abuse, punishable under the provisions of the legislation in force.

7. If the employer has defaulted in executing any of the provisions of this law or any regulation issued by its virtue provided that the employer had received a notification from a competent authority at the Ministry entailing his abidance by such provisions.

B. If it appears to the Minister of an attack from the employer or his representative or beat or any form of sexual abuse of his employees, he may decide to close the institution for the period that the minister deems appropriate, taking into account the provisions of any other legislation to take effect.

Article 30:

Upon the request of the employee, the employer shall give the employee upon the end of his/her service a certificate of experience in which the employer shall mention the name of the employee, kind of his/her work, date of his/her joining work, date of the end of service, the employer shall give back the certificates or instruments of the employee.

Article 31:

A. If the economic or technical conditions of the employer entail reducing the size of work force, replacing a production system with another, or stopping work completely which may result in terminating unlimited period work contracts or suspend all of some of the contracts, then the employer shall notify the Minister of this in writing supported with the reasons justifying that, Before taking any action in this regard.

B. The Minister shall form a committee of the three production parties to verify the validity of the procedures taken by the employer and provide its recommendation in this regard to the Minister within a period not exceeding fifteen days from the date of providing the notification.

C. The Minister shall issue his decision in relation to the recommendation during seven days from the date of submitting it whether by approving the procedures of the employer or reconsidering such procedures.

D. Any aggrieved party because of the Minister's decision issued in accordance with paragraph (C) of this article may appeal the decision during ten days from the date in which he/she was notified of this decision at the competent Court of Appeals which shall look into the appeal and issue its decision in a period of month utmost from the date of registering the appeal in the court section.

E. The employees whose services have been terminated in accordance with paragraph (A,B) of this article may return to their work during a year from the

date of their leaving work if the work has returned to its previous state and their re-employment with the employer was permissible.

F. The employee whose work contract was suspended in accordance with paragraph (A) of this article may leave his/her work without a notification with keeping his/her legal rights upon the end of his/her service.

Article 32:

The employee not subject to the provisions of the Social Security Law, and whose service is terminated for any reason may acquire the end of service remuneration in a rate of a month wage for each year of his/her actual service, for the parts of year, he/she shall be given a proportional remuneration.

The remuneration shall be calculated on the basis of the last wage that he/she has received during the period of his/her employment, while if the complete wage or part of it was calculated on the basis of commission or task work, then the remuneration shall be calculated based on the average of the monthly wage received by the employee during the twelve months preceding the end of his/her service.

If the period of his/her service has not reached that extent, then the monthly average of the total of his/her service period shall be considered, the intermissions not exceeding sixty days between one work and another shall be considered as uninterrupted employment period when calculating the remuneration.

Article 35:

A. The employer may recruit any employee under probation to verify his/her qualifications and capabilities to carry out the required work provided that the probation period shall not exceed in any case three months and the wage of the employee under probation shall not be less than the minimum limit decided for wages.

B. The employer may terminate the employment of the employee under probation without a notification or remuneration during the probation period.

C. If the employee has continued working after the expiry period of the probation, the contract shall be considered as unlimited period work contract, and the probation period shall be considered within the period of service.

Article 137:

A. The Magisterial Court shall have jurisdiction over looking into the lawsuits arising from the individual labour disputes urgently with the exception of the lawsuits related to wages in the areas where there is an authority of wages by virtue of the provisions of this law provided that they shall be considered during three months from the date of having them in the court.

B. The court decision issued by virtue of the provisions of paragraph (A) of this article shall be appealed during ten days from the date of its declaration if it was in presence and the date of its notification in case it was in absentia, the

court shall decide in the appeal during thirty days from the date of having it in its office.

C. 1. The lawsuits presented to the Magisterial Court shall be exempted from all fees including the fees of executing the decisions issued by it.

2. Provisions of subsection (1) of this paragraph shall not apply in the event of renewal of proceedings more than once after the drops or on any other claim held by the employee to demand the same labor rights.

Article 138:

A. Any lawsuit related to any violation committed inconsistent with the provisions of this law, any regulation, or instructions issued by its virtue might be considered unless the lawsuit was instituted during one month from the date in which this violation was committed.

B. Any lawsuit for claiming any right given by this law including the wages of overtime hours whatever its source was may not be considered after two years have passed since the reason of claiming such rights and wages has risen.

Annexe No. 2

International labour standards

C158 Termination of Employment Convention, 1982

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-eighth Session on 2 June 1982, and
Noting the existing international standards contained in the Termination of Employment Recommendation, 1963, and
Noting that since the adoption of the Termination of Employment Recommendation, 1963, significant developments have occurred in the law and practice of many member States on the questions covered by that Recommendation, and
Considering that these developments have made it appropriate to adopt new international standards on the subject, particularly having regard to the serious problems in this field resulting from the economic difficulties and technological changes experienced in recent years in many countries,
Having decided upon the adoption of certain proposals with regard to termination of employment at the initiative of the employer, which is the fifth item on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention;
adopts this twenty-second day of June of the year one thousand nine hundred and eighty-two the following Convention, which may be cited as the Termination of Employment Convention, 1982:

PART I. METHODS OF IMPLEMENTATION, SCOPE AND DEFINITIONS

Article 1

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or court decisions or in such other manner as may be consistent with national practice, be given effect by laws or regulations.

Article 2

1. This Convention applies to all branches of economic activity and to all employed persons.
2. A Member may exclude the following categories of employed persons from all or some of the provisions of this Convention:
(a) workers engaged under a contract of employment for a specified period of time or a specified task;
(b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;

(c) workers engaged on a casual basis for a short period.
3. Adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention.
4. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or certain provisions thereof categories of employed persons whose terms and conditions of employment are governed by special arrangements which as a whole provide protection that is at least equivalent to the protection afforded under the Convention.
5. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or certain provisions thereof other limited categories of employed persons in respect of which special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.
6. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraphs 4 and 5 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice regarding the categories excluded, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

Article 3

For the purpose of this Convention the terms *termination* and *termination of employment* mean termination of employment at the initiative of the employer.

PART II. Standards OF GENERAL APPLICATION

DIVISION A. JUSTIFICATION FOR TERMINATION

Article 4

The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

Article 5

The following, inter alia, shall not constitute valid reasons for termination:
(a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
(b) seeking office as, or acting or having acted in the capacity of, a workers' representative;

(c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
(d) race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
(e) absence from work during maternity leave.

Article 6

1. Temporary absence from work because of illness or injury shall not constitute a valid reason for termination.
2. The definition of what constitutes temporary absence from work, the extent to which medical certification shall be required and possible limitations to the application of paragraph 1 of this Article shall be determined in accordance with the methods of implementation referred to in Article 1 of this Convention.

DIVISION B. PROCEDURE PRIOR TO OR AT THE TIME OF TERMINATION

Article 7

The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

DIVISION C. PROCEDURE OF APPEAL AGAINST TERMINATION

Article 8

1. A worker who considers that his employment has been unjustifiably terminated shall be entitled to appeal against that termination to an impartial body, such as a court, labour tribunal, arbitration committee or arbitrator.
2. Where termination has been authorised by a competent authority the application of paragraph 1 of this Article may be varied according to national law and practice.
3. A worker may be deemed to have waived his right to appeal against the termination of his employment if he has not exercised that right within a reasonable period of time after termination.

Article 9

1. The bodies referred to in Article 8 of this Convention shall be empowered to examine the reasons given for the termination and the other circumstances relating to the case and to render a decision on whether the termination was justified.
2. In order for the worker not to have to bear alone the burden of proving that the termination was not justified, the methods of implementation referred to in Article 1 of this Convention shall provide for one or the other or both of the following possibilities:
(a) the burden of proving the existence of a valid reason for the termination as defined in Article 4 of this Convention shall rest on the employer;
(b) the bodies referred to in Article 8 of this Convention shall be empowered to reach a conclusion on the reason for the termination having regard to the evidence

provided by the parties and according to procedures provided for by national law and practice.

3. In cases of termination stated to be for reasons based on the operational requirements of the undertaking, establishment or service, the bodies referred to in Article 8 of this Convention shall be empowered to determine whether the termination was indeed for these reasons, but the extent to which they shall also be empowered to decide whether these reasons are sufficient to justify that termination shall be determined by the methods of implementation referred to in Article 1 of this Convention.

Article 10

If the bodies referred to in Article 8 of this Convention find that termination is unjustified and if they are not empowered or do not find it practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.

DIVISION D. PERIOD OF NOTICE

Article 11

A worker whose employment is to be terminated shall be entitled to a reasonable period of notice or compensation in lieu thereof, unless he is guilty of serious misconduct, that is, misconduct of such a nature that it would be unreasonable to require the employer to continue his employment during the notice period.

DIVISION E. SEVERANCE ALLOWANCE AND OTHER INCOME PROTECTION

Article 12

1. A worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to-

(a) a severance allowance or other separation benefits, the amount of which shall be based inter alia on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or

(b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age or invalidity benefits, under the normal conditions to which such benefits are subject; or

(c) a combination of such allowance and benefits.

2. A worker who does not fulfil the qualifying conditions for unemployment insurance or assistance under a scheme of general scope need not be paid any allowance or benefit referred to in paragraph 1, subparagraph (a), of this Article solely because he is not receiving an unemployment benefit under paragraph 1, subparagraph (b).

3. Provision may be made by the methods of implementation referred to in Article 1 of this Convention for loss of entitlement to the allowance or benefits referred to in paragraph 1, subparagraph (a), of this Article in the event of termination for serious misconduct.

PART III. SUPPLEMENTARY PROVISIONS CONCERNING TERMINATIONS OF EMPLOYMENT FOR ECONOMIC, TECHNOLOGICAL, STRUCTURAL OR SIMILAR REASONS

DIVISION A. CONSULTATION OF WORKERS' REPRESENTATIVES

Article 13

1. When the employer contemplates terminations for reasons of an economic, technological, structural or similar nature, the employer shall:

(a) provide the workers' representatives concerned in good time with relevant information including the reasons for the terminations contemplated, the number and categories of workers likely to be affected and the period over which the terminations are intended to be carried out;

(b) give, in accordance with national law and practice, the workers' representatives concerned, as early as possible, an opportunity for consultation on measures to be taken to avert or to minimise the terminations and measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.

2. The applicability of paragraph 1 of this Article may be limited by the methods of implementation referred to in Article 1 of this Convention to cases in which the number of workers whose termination of employment is contemplated is at least a specified number or percentage of the workforce.

3. For the purposes of this Article the term *the workers' representatives concerned* means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

DIVISION B. NOTIFICATION TO THE COMPETENT AUTHORITY

Article 14

1. When the employer contemplates terminations for reasons of an economic, technological, structural or similar nature, he shall notify, in accordance with national law and practice, the competent authority thereof as early as possible, giving relevant information, including a written statement of the reasons for the terminations, the number and categories of workers likely to be affected and the period over which the terminations are intended to be carried out.

2. National laws or regulations may limit the applicability of paragraph 1 of this Article to cases in which the number of workers whose termination of employment is contemplated is at least a specified number or percentage of the workforce.

3. The employer shall notify the competent authority of the terminations referred to in paragraph 1 of this Article a minimum period of time before carrying out the terminations, such period to be specified by national laws or regulations.

R166 Termination of Employment Recommendation, 1982

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-eighth Session on 2 June 1982, and
Having decided upon the adoption of certain proposals with regard to termination of employment at the initiative of the employer, which is the fifth item on the agenda of the session, and
Having determined that these proposals shall take the form of a Recommendation supplementing the Termination of Employment Convention, 1982;
adopts this twenty-second day of June of the year one thousand nine hundred and eighty-two, the following Recommendation, which may be cited as the Termination of Employment Recommendation, 1982:

I. Methods of Implementation, Scope and Definitions

1. The provisions of this Recommendation may be applied by national laws or regulations, collective agreements, works rules, arbitration awards or court decisions or in such other manner consistent with national practice as may be appropriate under national conditions.

2. (1) This Recommendation applies to all branches of economic activity and to all employed persons.

(2) A Member may exclude the following categories of employed persons from all or some of the provisions of this Recommendation:

(a) workers engaged under a contract of employment for a specified period of time or a specified task;

(b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;

(c) workers engaged on a casual basis for a short period.

(3) In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Recommendation or certain provisions thereof categories of employed persons whose terms and conditions of employment are governed by special arrangements, which as a whole provide protection that is at least equivalent to the protection afforded under the Recommendation.

(4) In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Recommendation or certain provisions thereof other limited categories of employed persons in respect of which special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.

3. (1) Adequate safeguards should be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from the Termination of Employment Convention, 1982, and this Recommendation.
(2) To this end, for example, provision may be made for one or more of the following:
(a) limiting recourse to contracts for a specified period of time to cases in which, owing either to the nature of the work to be effected or to the circumstances under which it is to be effected or to the interests of the worker, the employment relationship cannot be of indeterminate duration;
(b) deeming contracts for a specified period of time, other than in the cases referred to in clause (a) of this subparagraph, to be contracts of employment of indeterminate duration;
(c) deeming contracts for a specified period of time, when renewed on one or more occasions, other than in the cases mentioned in clause (a) of this subparagraph, to be contracts of employment of indeterminate duration.
4. For the purpose of this Recommendation the terms *termination* and *termination of employment* mean termination of employment at the initiative of the employer.

II. Standards of General Application

Justification for Termination

5. In addition to the grounds referred to in Article 5 of the Termination of Employment Convention, 1982, the following should not constitute valid reasons for termination:
(a) age, subject to national law and practice regarding retirement;
(b) absence from work due to compulsory military service or other civic obligations, in accordance with national law and practice.
6. (1) Temporary absence from work because of illness or injury should not constitute a valid reason for termination.
(2) The definition of what constitutes temporary absence from work, the extent to which medical certification should be required and possible limitations to the application of subparagraph (1) of this Paragraph should be determined in accordance with the methods of implementation referred to in Paragraph 1 of this Recommendation.

Procedure Prior to or at the Time of Termination

7. The employment of a worker should not be terminated for misconduct of a kind that under national law or practice would justify termination only if repeated on one or more occasions, unless the employer has given the worker appropriate written warning.
8. The employment of a worker should not be terminated for unsatisfactory performance, unless the employer has given the worker appropriate instructions and

written warning and the worker continues to perform his duties unsatisfactorily after a reasonable period of time for improvement has elapsed.

9. A worker should be entitled to be assisted by another person when defending himself, in accordance with Article 7 of the Termination of Employment Convention, 1982, against allegations regarding his conduct or performance liable to result in the termination of his employment; this right may be specified by the methods of implementation referred to in Paragraph 1 of this Recommendation.

10. The employer should be deemed to have waived his right to terminate the employment of a worker for misconduct if he has failed to do so within a reasonable period of time after he has knowledge of the misconduct.

11. The employer may consult workers' representatives before a final decision is taken on individual cases of termination of employment.

12. The employer should notify a worker in writing of a decision to terminate his employment.

13. (1) A worker who has been notified of termination of employment or whose employment has been terminated should be entitled to receive, on request, a written statement from his employer of the reason or reasons for the termination.

(2) Subparagraph (1) of this Paragraph need not be applied in the case of collective termination for the reasons referred to in Articles 13 and 14 of the Termination of Employment Convention, 1982, if the procedure provided for therein is followed.

Procedure of Appeal against Termination

14. Provision may be made for recourse to a procedure of conciliation before or during appeal proceedings against termination of employment.

15. Efforts should be made by public authorities, workers' representatives and organisations of workers to ensure that workers are fully informed of the possibilities of appeal at their disposal.

Time Off from Work during the Period of Notice

16. During the period of notice referred to in Article 11 of the Termination of Employment Convention, 1982, the worker should, for the purpose of seeking other employment, be entitled to a reasonable amount of time off without loss of pay, taken at times that are convenient to both parties.

Certificate of Employment

17. A worker whose employment has been terminated should be entitled to receive, on request, a certificate from the employer specifying only the dates of his engagement and termination of his employment and the type or types of work on which he was employed; nevertheless, and at the request of the worker, an evaluation of his conduct and performance may be given in this certificate or in a separate certificate.

Severance Allowance and Other Income Protection

18. (1) A worker whose employment has been terminated should be entitled, in accordance with national law and practice, to-

(a) a severance allowance or other separation benefits, the amount of which should be based, inter alia, on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or

(b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age or invalidity benefits, under the normal conditions to which such benefits are subject; or

(c) a combination of such allowance and benefits.

(2) A worker who does not fulfil the qualifying conditions for unemployment insurance or assistance under a scheme of general scope need not be paid any allowance or benefit referred to in subparagraph (1) (a) of this Paragraph solely because he is not receiving an unemployment benefit under subparagraph (1) (b).

(3) Provision may be made by the methods of implementation referred to in Paragraph 1 of this Recommendation for loss of entitlement to the allowance or benefits referred to in subparagraph (1) (a) of this Paragraph in the event of termination for serious misconduct.

III. Supplementary Provisions concerning Terminations of Employment for Economic, Technological, Structural or Similar Reasons

19. (1) All parties concerned should seek to avert or minimise as far as possible termination of employment for reasons of an economic, technological, structural or similar nature, without prejudice to the efficient operation of the undertaking, establishment or service, and to mitigate the adverse effects of any termination of employment for these reasons on the worker or workers concerned.

(2) Where appropriate, the competent authority should assist the parties in seeking solutions to the problems raised by the terminations contemplated.

Consultations on Major Changes in the Undertaking

20. (1) When the employer contemplates the introduction of major changes in production, programme, organisation, structure or technology that are likely to entail terminations, the employer should consult the workers' representatives concerned as early as possible on, inter alia, the introduction of such changes, the effects they are likely to have and the measures for averting or mitigating the adverse effects of such changes.

(2) To enable the workers' representatives concerned to participate effectively in the consultations referred to in subparagraph (1) of this Paragraph, the employer should supply them in good time with all relevant information on the major changes contemplated and the effects they are likely to have.

(3) For the purposes of this Paragraph the term *the workers' representatives concerned* means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

Measures to Avert or Minimise Termination

21. The measures which should be considered with a view to averting or minimising terminations of employment for reasons of an economic, technological, structural or similar nature might include, inter alia, restriction of hiring, spreading the workforce reduction over a certain period of time to permit natural reduction of the workforce, internal transfers, training and retraining, voluntary early retirement with appropriate income protection, restriction of overtime and reduction of normal hours of work.

22. Where it is considered that a temporary reduction of normal hours of work would be likely to avert or minimise terminations of employment due to temporary economic difficulties, consideration should be given to partial compensation for loss of wages for the normal hours not worked, financed by methods appropriate under national law and practice.

Criteria for Selection for Termination

23. (1) The selection by the employer of workers whose employment is to be terminated for reasons of an economic, technological, structural or similar nature should be made according to criteria, established wherever possible in advance, which give due weight both to the interests of the undertaking, establishment or service and to the interests of the workers.

(2) These criteria, their order of priority and their relative weight, should be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

Priority of Rehiring

24. (1) Workers whose employment has been terminated for reasons of an economic, technological, structural or similar nature, should be given a certain priority of rehiring if the employer again hires workers with comparable qualifications, subject to their having, within a given period from the time of their leaving, expressed a desire to be rehired.

(2) Such priority of rehiring may be limited to a specified period of time.

(3) The criteria for the priority of rehiring, the question of retention of rights-particularly seniority rights-in the event of rehiring, as well as the terms governing the wages of rehired workers, should be determined according to the methods of implementation referred to in Paragraph 1 of this Recommendation.

Mitigating the Effects of Termination

25. (1) In the event of termination of employment for reasons of an economic, technological, structural or similar nature, the placement of the workers affected in

suitable alternative employment as soon as possible, with training or retraining where appropriate, should be promoted by measures suitable to national circumstances, to be taken by the competent authority, where possible with the collaboration of the employer and the workers' representatives concerned.

(2) Where possible, the employer should assist the workers affected in the search for suitable alternative employment, for example through direct contacts with other employers.

(3) In assisting the workers affected in obtaining suitable alternative employment or training or retraining, regard may be had to the Human Resources Development Convention and Recommendation, 1975.

26. (1) With a view to mitigating the adverse effects of termination of employment for reasons of an economic, technological, structural or similar nature, consideration should be given to providing income protection during any course of training or retraining and partial or total reimbursement of expenses connected with training or retraining and with finding and taking up employment which requires a change of residence.

(2) The competent authority should consider providing financial resources to support in full or in part the measures referred to in subparagraph (1) of this Paragraph, in accordance with national law and practice.

Cessation d'emploi à l'initiative de l'employeur Dans le Royaume Hachémite de Jordanie

Etude analytique de la réalité législative et l'application pratique

Résume

Quelques données générales

La société jordanienne se caractérise par une forte proportion de jeunes de moins de 15 ans, soit 37.3% de la population totale estimée a 5,98 millions. La croissance démographique est de 2,2%. On estime la population active a 40,1%, dont 12,9% de chômeurs. Ce taux de population active relativement bas s'explique d'une part par la faible contribution des femmes a l'activité économique (85,1% des femmes sont considérées comme non actives), d'autre part par la proportion importante de jeunes de moins de 15 ans.

Le secteur des services est le secteur le plus attractif avec une representation de 60,5% de l'emploi, tandis que le secteur agricole est le moins attractif avec seulement 2,8%.

Le chômage de longue durée (1 année et plus) est de 34,9% du total des chômeurs en 2009, alors qu'il etait de 19,5% en 2008.
Il n'existe pas en Jordanie de données sur le nombre de travailleurs qui quittent leur fonction sur ordre de licenciement, ni sur le taux moyen de la durée de la relation du travail, ni sur le taux de demandeurs d'emploi par profession, ni sur la proportion de contracts a durée determine et de contacts a durée indéterminée.

La compatibilité avec les normes internationales du travail

En dépit de l'absence de ratification par la Jordanie de la convention de l'OIT n ° 158 concernant la cessation d'emploi à l'initiative de l'employeur, la Loi

du Travail en vigueur s'approche de nombreux critères prévus par ladite convention et la recommandation n ° 166, surtout après les modifications apportées à la loi en 2008 et 2010. Cependant il persiste certaines lacunes qui demanderaient des solutions législatives. On constate également des problèmes dans l'application pratique ainsi qu'une faiblesse averee dans la protection contre le licenciement abusif et ses conséquences.

Le champ d'application de la Loi du Travail

La Loi jordanienne du Travail couvre tous les travailleurs rémunères, y compris les travailleurs agricoles et les travailleurs/ses domestiques. Les travailleurs sont couverts indépendamment de leur nationalité, de la nature de leur contract (de durée limitée ou illimitée), de l'entreprise, petite ou grande, enregistrée ou non.

La Loi jordanienne du Travail ne prend pas en compte les employés du secteur public qui sont soumis à des législations particulières visant a assurer en outre la stabilité de leur travail, de meme que les travailleurs indépendants ou les travailleurs non rémunérés, comme les personnes travaillant au sein des entreprises familiales.

La résiliation de contract

La Loi interdit de mettre un terme au contract de travail sauf dans les cas suivants:
1 – le contract de durée limitée arrive a expiration.
2 - l'employé est en incapacité définitive de travail.
3 - employé a atteint l'age de la retraite (60 ans pour les hommes et 55 ans pour les femmes selon la loi de la Sécurité Sociale).
4 - des raisons économiques ou techniques affectent l'entreprise. La résiliation doit être alors approuvée par le Ministre du Travail sur la recommandation d'un comité tripartite.
5 – Des irrégularités ont été commises de la part de l'employé, pour autant

que la faute soit répertoriée par la Loi.

En cas de résiliation de contract, la Loi exige que l'employeur émette un préavis de licenciement au moins un mois avant la date de cessation d'activité, sauf si les raisons du licenciement se referent au point no 5 évoque ci-dessus.

La Loi interdit le licenciement pour cause de plainte déposée (plainte relative a la Loi du Travail), et pendant les conges de diverses natures, incluant grossesse a partir du 6eme mois et maternité, pour cause activité syndicale, et pendant un conflit collectif du travail.

L'employé, quant a lui, peut quitter son travail a tout moment sans aucune restriction, mis a part l'obligation de donner un préavis d'un mois a son employeur. L'employé est cependant en droit de quitter son travail sans preavis et de demander des dommages et intérêts dans le cas ou il aurait été lese par l'employeur selon la Loi du Travail.

Par contre, la Loi n'a pas les moyens de restreindre les relations de travail basées sur des contracts a durée limitée. Il y a des secteurs qui utilisent encore systématiquement ce genre de contracts, comme par exemple le secteur de l'enseignement prive. Par ailleurs, les travailleurs étrangers sont également tenus par la Loi du Travail elle-meme de ne travailler que sous ce type de contracts.

Les actions en justice

Le Tribunal est en charge de determiner le dédommagement en cas de licenciement abusif, en proportion des années de service, ou d'obliger l'employeur de reprendre employé plaignant. Cette dernière option est en pratique très rarement retenue. Si le travailleur est le représentant d'un syndicat, le Tribunal peut obliger l'employeur de reprendre le plaignant avec en sus le versement d'un dédommagement supplémentaire.

En cas d'abus, employé n'a pas d'autre moyen que d'engager une procédure judiciaire. Si ces procedures sont exonérées de frais, elles sont toutefois trop lentes, peuvent s'étendre jusqu'a une année ou plus, alors que la Loi impose théoriquement une conclusion de l'affaire en 3 mois maximum. Si la somme litigieuse dépasse 1000.- JD, le système juridique oblige le plaignant a prendre un avocat. Le délai d'engagement des procedures est par contre limite a 60 jours a partir de la date de licenciement, ce qui représente une période relativement courte. Ni le Ministère du Travail ni aucun autre organe ne jouent de role pour résoudre ces conflits, car la Loi ne leur accorde pas ce pouvoir. Cette situation laisse l'individu devant des demarches lentes, complexes et décourageantes, dont il n'a pas l'expérience ou pour lesquelles il ne peut pas toujours se rendre disponible. Ces difficultés peuvent l'amener a renoncer a engager des poursuites, a abandonner ses droits en totalité ou en partie, ou a céder aux pressions.

D'autre part, aucun effort global n'est fourni ni de la part du Ministère du Travail ni de la part d'autres organismes pour informer les travailleurs de leurs droits, surtout pour les questions de licenciements, mis a part quelques initiatives restreintes. Le système d'inspection du travail présente des défaillances: le nombre d'inspecteurs du travail est insuffisant, ils ne disposent pas des moyens pour informatiser les données collectées, l'organisation des inspections sur le terrain est chaotique… tous ces facteurs en réduisent considérablement l'efficacité.

La protection complémentaire de l'emploi

La protection en cas de perte d'emploi est tres limitée. Actuellement, seulement 40% des entreprises sont affiliées a la Sécurité Sociale, qui ne prend pas en compte les enterprises de moins de 5 employés. Il existe aujourd'hui un projet qui vise a inclure la totalité des entreprises dans la Sécurité Sociale d'ici la fin de 2011. D'autre part, l'assurance chômage n'est pas encore activée, bien que déjà prevue dans la loi de sécurité sociale, tout

comme l'assurance maternité. Cette loi donne au Premier Ministère le pouvoir de décider de l'activation de ces assurances.

Il n'existe en Jordanie aucun système pour soutenir le travailleur qui perd son emploi pour une raison quelconque, que ce soit par la mise a disposition d'un autre emploi, d'une possibilité de reorientation ou recyclage… Les projets de promotion de l'emploi sont limites dans leur activation et, ne correspondant pas aux réalités du marche du travail, sont nettement insuffisants pour répondre aux besoins des chômeurs. Il n'y a en effet pas de politique globale et coordonnée.