

A Comparative Study for the Situation of Palestinian Engineers in Lebanon and in Syria

Introduction:

The right to work is a fundamental right of human rights guaranteed under the Universal Declaration of Human Rights (Article 23) and the International Covenant on Economic, Social and Cultural Rights (Article VI).

In 1958, International Organization of Justice issued convention No. 111 concerning discrimination in the workplace. This Convention prohibits discrimination on the basis of color, race, sex, religion, political affiliation, national origin or social origin. This discrimination has the effect on nullifying or impairing equality of opportunity or treatment in the profession.

Lebanon has ratified this convention on 1/6/1977.

In 1965, the Arab countries including Lebanon signed on Casablanca Protocol which indicates several points:

- Work: employ them like citizens of the countries in which they reside.
- Location: give them the right of residence
- Mobility: give them the right to travel outside the country of asylum and to facilitate the procedures for issuing passports, giving them visas as nationals of Arab countries.

But Lebanon within the signed memorandum had reservations on civil, human, economic and social rights for Palestinian refugees resulting in practically undermining the basic contents of the protocol.

In Lebanon, the estimated number of Palestinian refugees who are residing in Lebanon is 260,000. The estimated percentage for Palestinians reside in camps is about 62%, while the estimated numbers of people who have the ability to work is 120000, and of those only 53000¹ people actually work.

More than half of young Palestinian refugees and the estimated unemployment rate for young people aged between 15 and 24 is about 40%.

We note that the percentage of unemployment rate in Palestinian society is high, which consequently affects the poverty rate and the livelihood level.

¹ Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

The high rate of unemployment is due to several factors, the most important one is the special situation of Palestinian refugees concerning work.

Before 2010, the Palestinian refugee was treated as a foreigner and he must get a work permit and pay the fees to be able to work in any profession.

It was also forbidden to work in free professions and registering in syndicates because syndicate bylaws says the member has to be Lebanese for more than ten years or the state of applicant committed to principle of reciprocity.

Additionally, the Palestinian does not benefit from social security which includes fund for sickness, maternity, work emergency and work sickness in addition to financial compensation and end of the service system because the Social Security Act takes in consideration principle of reciprocity in order to benefit foreign workers from social security.

For Palestinian workers, the problem lies in the application of principle of reciprocity which assumes the existence of State to sign an agreement with Lebanon to treat the Lebanese workers in Palestine similarly. This issue is not available to Palestinian state where the efforts are still exerted to announce the Palestinian State.

In 2010, the labor law was amended to exempt Palestinian from paying fees for work permit, but it is still a need to obtain it. The law also kept a ban on free professions and belonging to the syndicates.

Banning some professions on Palestinians on the basis of their Palestinian nationality is considered as disruption on the part of Lebanese Republic towards its international obligations under the Convention No. 111 of International Labor Organization.

For social security, the law had committed the Palestinian worker to pay full fees with no possibility of benefiting from it only they can benefit from end - of – service compensation through a special fund related to contributions belonging to Palestinian workers.

The informative memorandum which was issued by the Director of National Fund for Social Security had exempted Palestinian workers from principle of reciprocity, but it indicated that those who are covered by law amended 128 (i.e., Palestinians in Lebanon) do not benefit from services of sickness, maternity and family allowances funds . Also, the memorandum identified the benefit from social security and mistreated the Palestinian worker by compelling him with the employer to pay the full warranty and deprived him from unconditional benefiting from social security under the pretext of that sickness, maternity and family allowances are from UNRWA authorities.

This amendment is a step forward but it is not enough for the Palestinians who aspire to more than to work in free professions and be equality to Lebanese worker at human right levels.

Law amendment; is it really a step forward?

1. Work permit: an obstacle for Palestinian worker

The law amendment kept on the need for Palestinian worker to get the work permit to practice his work.

The work permit is one of the obstacles that face the Palestinian worker; it is linked to the existence of work contract, so this issue is associated to the need of getting the approval of the employer to sign a contract with Palestinian employee in order to apply for a work permit. This issue cannot be achieved in most cases; the employer (who is often Lebanese) refuses to sign a contract with Palestinian employee in order not to entail to different obligations.

In addition, if the employment contract was ended or the employer had changed, the Palestinian worker has to get new work permit passing in all necessity procedures in each time.

We can note the difficulty of obtaining a work permit through the following numbers: In 2007, 105 work permits were issued only for Palestinian refugees in Lebanon, of those 102 permits renewed. In 2008, the number fell to 79, of this number 78 permits were renewed, and the number continued to decline down to 66 work permits in 2009 which all were for renewal. Those numbers indicate that the new law will not be able to solve the problem from its roots, so it keeps work permits and exempts fees because the problem remains in front of Palestinian refugee where the employer had to accept adopting the worker in order to get work permit.

2 - The principle of reciprocity is a condition to join syndicates

The law had cancelled the principle of reciprocity with respect to having work permits and access to social security.

But that principle has still existed with regard to the liberal professions and possibility of belonging to the syndicates.

If we take the engineering profession as an example, we note that the bylaws of Engineers syndicate had a condition that the state of engineer who wants to register in the

syndicate must treat its citizens equally, so the principle of reciprocity is still applied in the syndicate; in the meantime, it was cancelled as a general principle.

Keeping this principle of reciprocity as a condition for belonging to syndicates and liberal professions had deprived large numbers of Palestinians from practicing their professions in a legal way, and it encourages the exploitation by employers. However, the employer will make use of this situation and hire nurse or secretary for example, without signing an employment contract and paying him small salary in addition he can fire him at any time without paying him any compensation.

By keeping the principle of reciprocity with regard to membership to syndicates and liberal professions, the Lebanese government doesn't protect the Lebanese labor from competition as it claims, but in fact, it encourages the exploitation of Palestinian labor.

3 - Modify the Social Security Act is injustice for Palestinian worker

Before 2010, the Palestinians are not entitled to benefit at all from the Social Security Fund, but after the last amendment of the law, the Palestinian refugee started to reimburse all fees for Social Security but he will not benefit from the fund services only he will take advantages of end- of- service compensation.

Depriving Palestinian from benefiting from maternity and sickness compensation and family allowances is an application of idea that UNRWA is responsible for these matters and it is not allowed to deprive UNRWA from its responsibilities.

This amendment is a great injustice to the Palestinian worker, so how does the worker pay all fees and does not benefit from all the guarantees?

This legislation is considered as injustice at legal and humanity levels, and it is violating the guaranteed principle of justice in accordance with the Charter of the Universal Declaration of Human Rights.

As a result of this legislation on social security, the employer would not register the Palestinian in social security in order not to pay the expenses without benefiting of worker from the services, and in this way the worker is exploited, or he will avoid hiring any Palestinian who insists in registration him in social security because the employer is unprepared to pay all expenses of social security without benefiting the worker from the services of social security fund, so the employer preferred in this case not to pay or pay , but for the workers who will benefit from these expenses.

Furthermore, it has been decided by Minister of Social Affair to set up a special account for Palestinian refugees within the Social Security Fund includes subscriptions attributable to Palestinian workers, and without incurring treasury or fund any financial obligation towards them.

Here, we had to note that so far, there is no account created actually and there is no agreement on who is responsible for it. So, that means lack of progress in the social security issue and the amendment is still ink on paper.

After reviewing the status of Palestinian refugees in Lebanon according to the right to work and understanding the effectiveness of the new law to improve their situation, we will focus on the next lines on a comparison between the situation of Palestinian refugees in Lebanon with those in Syria to illustrate the possibility of enjoyment Palestinians their complete rights without representing a burden on the government.

The focus in this comparison study is on engineering profession as a liberal profession; whereas, Palestinians are prevented from practicing the profession in Lebanon as an attempt to bring the views of Lebanese legislator and Palestinian refugee.

1 - Important Information

A - General Information about Lebanon and Syria

	Lebanon	Syria
Area	45,210 Km ²	180,185 Km ²
Population	3,759,100 ²	21,351,715 ³
The proportion of youth at university	Only 20% of the Lebanese workforce received a university education ⁴	
The unemployment rate	6.4% ⁵	The unemployment rate for males up to 5.7 % , and for females is 3.5 % ⁶

B - the status of Palestinian refugees in Syria and Lebanon

	Lebanon	Syria
Number of Palestinian Refugees	260,000- 280,000 residents in Lebanon ⁷	450,000 enrolled in UNRWA in 2008 ⁸
Annual growth rate	2.1%	2.3%
Residing in the camps	62% ⁹	27.1% ¹⁰
The proportion of workers	The numbers of Palestinians who have the ability to work is 120,000, and of those 53,000 ¹¹ are actually working.	
The proportion of young	Only 6% of the Palestinian	only 9.4% of Palestinian

² Look at website of Central Statistics administration <http://www.cas.gov.lb>

³ Look at Central Office of statistics <http://www.cbssyr.org>

⁴ Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

⁵ Review website of Central Statistics administration <http://www.cas.gov.lb>

⁶ Review the study of "Arab countries Numbers and Indicators" issued by statistic administration and database. Economical sector- General Secretary of Arab Countries University

⁷ Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

⁸ Study about the Palestinian Refugees in Syria done by Swiss Organization for Refugee Assistance

⁹ Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

¹⁰ Look at website <http://www.wajeb.org>

¹¹ Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

Palestinian at university	labor force in Lebanon received a university education ¹²	workers received an university education or institute education ¹³
Number of Palestinian Engineers	300-350 engineers are registered in union	

From this information, we note that the number of Palestinian refugees in Syria is more than Palestinian refugees in Lebanon. The annual growth rate for refugees in Syria is more than the rate in Lebanon.

¹² Social and Economical Study for Palestinian Refugees in Lebanon by American University of Beirut

¹³ Look at website <http://www.ajras.org/?page=show&detailstable=articleId=20&>

2 - Legal texts

In Lebanon, Palestinians are subjugated to Law No. 128 of 2010, which indicate that Palestinians must obtain a work permit and they are exempted from paying fees, and this law cancelled the principle of reciprocity. But this law deprived the Palestinian from practicing liberal professions and belonging to the syndicates.

It must be recalled that Palestinian workers do not benefit from the services of the social security fund because he benefit from UNRWA services.

According to the Syrian Labor Code of 2010, article 28 (d): "The Arab Palestinians who are included in the provisions of the law (260) for year 1956 treated as Arab Syrians are treated."

The first article of Law No. 260 of 1956 states that " The Palestinian refugee living in Syria on the date of publication of this law is considered as Syrian originally in all provisions of applicable laws and regulations of employment, labor, trade and military service rights, while he keeps hold of his original nationality."

Then, we conclude that the Palestinian has right to work without getting a work permit and he is subjugated to the Syrian labor law in all regards of guarantees and compensation. Also, he has the right to practice free professions and belonging to the syndicates.

3 – Comments

We note from the above information that the number of refugees in Syria exceeds the number of Palestinian refugees in Lebanon, and Syria's growth rate is higher than the rate in Lebanon. However, we note that the refugees in Syria have received their rights more than those in Lebanon.

The question remains: What are the barriers to give the Palestinian refugees in Lebanon their full right to work?

We will try to think of some reasons for this situation and respond to them.

The first reason: the Palestinian labor force will affect the employment opportunities for Lebanese.

We note that the unemployment rate in Lebanon is less than the rate in Syria; however, in Syria, the Palestinian refugees have the right to work.

The second reason: Allowing Palestinian refugees to belong to syndicates will raise the proportion of university education for Palestinians and the labor market will be overcrowded

We note that despite the Palestinians have the possibility of belonging to the syndicates in Syria, the percentage of Palestinians who obtained a university education does not exceed 9.4 %.

University education is linked to poverty proportion; however, poor families cannot afford the expenses of the university. In addition, 62 % of Palestinians in Lebanon live in camps, and two-thirds of the refugees in Lebanon are considered poor. These factors stand as obstacles in enrolling the young people at universities because their parents prefer their siblings to join the labor market quickly to help them in livelihood expenses.

So by having comparison with Syria, we see that the percentage of university education will not rise in high rates and pose a threat to the Lebanese workers.

Giving them the right to belong to syndicates aimed only to let them stay in their surroundings without having to travel or emigrate until they return to their homeland.

The third reason: giving Palestinian refugees the right to work means resettlement in Lebanon

We are not asking to give citizenship to Palestinian refugees in Lebanon. The right to work is the right of every human being. Because of the special situation of Palestinian refugees, we ask for giving them the right to work which is one of human right and taking into account their situation and facilitate achieving this right.

Achieving such a request does not in any way lead to the settlement of refugees in Lebanon, in particular with looking to Syria situation; we saw that the Palestinians are still clinging to their right to return. However, the Palestinians in Lebanon are clinging to their cause and their right to return and giving them the right to work will not make them to abandon their cause, but it will contribute to their struggle.

The fourth reason: Lebanese Parliament has no legislative authority in regard to the bylaws of syndicates: Example Engineering syndicate

In order to answer this question, we must view the situation of the Palestinian engineers in Lebanon and the most important problems and then search the legal part of the subject.

Palestinian engineers in Lebanon:

First: the reality of Palestinian engineers in Lebanon:

In general, the Palestinian engineer's students studied variety of field of specialization: Computer Engineering, Civil Engineering, Architecture, Mechanical Engineering, Electrical Engineering, Machinery Medical Engineering ... etc.

It had to be noted that at present, the number of engineering learners had decreased due to the difficulty of traveling abroad or migration for some of learners and the impossibility of practicing the profession legally in Lebanon. So, the Palestinian youth see that the labor market is closed for the engineering profession, so they decided to study in another faculty to find jobs after graduation.

As well as, the graduate from engineering faculty cannot get the engineer title, even if he is graduated from Lebanese University. If he wants to get this title, he has to get a permit to practice the profession and belong to the syndicate, and the Palestinian is banned from this. This causes the inability of Palestinian to practice of engineering profession in a legitimate way and allows exploitation of Palestinians in different ways as hiring him without signing work contract and ensuring his right , and taking holidays and vacations. If the

contract was found, it is just like picture and cannot rely on it in front of judge in case taking legal action.

Other ways of exploitation is to hire Palestinian engineer and paying him pittance under multiple titles that are not related to his domain of specialist.

The most important negative consequences for non- affiliation the Palestinian engineering in syndicates is not registering him in social security; resulting the lack of protection in event of work accident and paying for medication.

Second: Engineers Syndicate in Lebanon:

Claiming that the Lebanese parliament has no authority over the syndicates is incorrect. The syndicates committed to legislation issued by the parliament because it is the authority that gives legislation, and it is the highest legislative authority which issued the law of forming syndicates that abide by syndicates and going according to it.

It is true that the Engineers Syndicate is enjoying internal independence and it had valuable authority in all matters falling within its functions and jurisdiction in accordance with Article I of bylaws of Engineers syndicate because of that there is coordination between the parliament and syndicate to implement any law that has to do with the profession.

But at the legislative level, Parliament is the first and only official responsible, so the possibility of legislation the work of Palestinians in the liberal professions is of Parliament concerns firstly.

In addition, according to Article 92 of Lebanese labor law, the Palestinian has the right to join syndicates.

Article 91 – For those who want to belong to syndicate has:

- 1 - To be from Lebanese nationality and enjoying his civil rights.
- 2 - To practice the profession upon demand.
- 3 - To complete eighteen years of age.
- 4 - Not be convicted of a felony or an infamous crime.

Article 92 - Foreigners are allowed to belong to syndicates if they had the conditions which set in second, third and forth paragraphs of the previous article, and he was authorized to work in Lebanon.

The foreign members are not entitled to elect or be elected, but they have the right to assign someone representing them and defending them to the Syndicate Council.

The Lebanese law also ensured the right for foreigners to be members in syndicates and have representative. However, the bylaws of syndicates came to exploit this right. For example, but not for limitation, Article III and IV of the law regulating the engineering profession:

Article 3

Conditions required in the Lebanese engineer

1 - A – Graduate from Lebanon:

Holding a degree in engineering from University or institute licensed to teach engineering in Lebanon.

1 - B - Graduate from outside Lebanon:

Holding a degree in engineering from University or institute where its degree recognized by Lebanese government; in addition, the program of education or the number of "credits" that leads to get an engineering degree should be equivalent to the curriculum of Lebanese University after Lebanese Baccalaureate Part II or its equivalent or a master degree in engineering. The recognition of engineering certificates is occurred by issuing resolutions from the Commission of practicing engineering profession which is referred to in paragraph V of this article and it should be approved by Minister of Culture and Higher Education. It is prohibited to recognize the diplomas given based on a study by correspondence.

But for those who started their studies before the effective date of this law, the legal provisions which were done in the mentioned date should be applied on them.

2 - Holding the Lebanese Baccalaureate or its equivalent in a former date of starting university education that leads to have engineering degree.

3 - He should not have been convicted of a felony or an infamous crime that deprived him from right to vote.

4 - Registering his name in the record of Engineers syndicate.

5 - He must have permission to practice the profession of engineering from the Ministry of Public Works in accordance with Article V of this law.

Article 4

Conditions required in the non-Lebanese engineer:

1 – Engineers from Arab States:

- A – should meet the conditions set out in Article III of this Law.
- B – The legislation of his country should treat Lebanese engineers similarly.
- C – Should prove that he has the right to practice engineering profession in his country of origin.
- D – Holding the residence card and work permit from the competent departments and he must be actually resided in Lebanon.
- E – If he is a foreigner originally and has the nationality of one of Arab states, five years must be passed on his acquisition of the nationality.

2 – Engineers who are not from Arab countries

- A – should meet the conditions set out in Article III of this law.
- B – The legislation of his country must treat Lebanese engineers similarly.
- C – At least ten years have been passed on getting his engineering degree.
- D - Has a membership in the engineering organization in his native country if this membership is mandatory for practicing the engineering profession, and in case if it is not mandatory, he has to prove that he has the right to practice the engineering profession in the country of origin.
- E - Holding the residence card and work permit from the competent departments and he must be actually resided in Lebanon, and has obtained the prior approval from Engineers Syndicate.
- F - The registration application should be supplied in accordance with Article XII of this law to the syndicate council which he has to come back to it after evidencing the completion the required application according to legal conditions , the right of appreciation for the acceptance of registration application or its refusal; in the event of acceptance of the application, it would be for a limited period one year, renewable at the request of the engineer, the central council put a table by the maximum limit for allowable period for application according to the field of specialist in the light of professional situation of syndicate.

3 – It is licensed for foreign engineers who enrolled in the syndicate and practiced the profession in Lebanon when applying this law to continue practicing the profession as before if they are holders of degrees and the laws of their country allow the Lebanese engineers to practice their profession in it.

We note that the syndicate based on the principle of reciprocity to register Arabs and foreigners to syndicate, and here lies the problem of the Palestinian refugees. Due to the existence of problems related to the declaration of Palestinian State, the principle of reciprocity in belonging to syndicates could be described as a crippling principle in front of Palestinian affiliation to syndicates.

The last amendment of labor law had cancelled the principle of reciprocity in general for Palestinian refugees after proving the ineffectiveness of its application on the Palestinian in Lebanon, and here the question is raised about not applying it in the bylaws of syndicates.

In comparing the bylaws of Lebanese engineers syndicate to that in Syria, we will note that the bylaws of syndicate in Syria indicates the following: **"Article 12 – the Palestinian Engineers who are living in Syrian Arab Republic and registered at UNRWA treated as Syrian Engineers are treated. "**

For the rest of Arab nationals, it had stated the following: **"Article 13 - The non - Syrian Arab Engineers allowed to practice the profession in the Syrian Arab Republic and who meet the following conditions:**

- 1 - The two conditions (2, 3) of Article (16) of this law.**
- 2 – Who are not deprived from practicing the profession for professional reason**
- 3 - Obtaining a work permit from the Ministry of Social Affairs and Labor**
- 4 – The regulations of their country allowed the principle of reciprocity**

In this way, the bylaws of engineers syndicate in Syria sponsored not applying the principle of reciprocity to Palestinian refugees in accordance with the general provisions of the labor law and taking into account their special status with respect to the rest of the Arab nationals.

Recommendations:

After reviewing the status of Palestinian refugees in Lebanon with regard to their work and proving the difficulty of the situation and the ineffectiveness of the laws which applied currently, we should take the following recommendations into consideration:

1 - With regard to work permit:

We have noticed how hard it is to get a work permit for Palestinians in Lebanon and we made sure of that by knowing the number of work permit that mentioned before. Therefore it is recommended to cancel the work permit for Palestinian Refugee in Lebanon to give him his right without any restrictions or obstacles.

2 - With regard to the liberal professions :

We recommend amending the law in order to allow Palestinian refugees to work in professions such as pharmacy, engineering, medicine and other professions and in accordance with the same conditions that Lebanese worker citizen subjugated to while he works in these professions.

Also, we ask for the facilitation of Palestinian membership to syndicate and that by cancelling the principle of reciprocity that is necessary for Arab affiliation to syndicate, such as Engineers syndicate in Syria, and that to appreciate their special situation and start to cancel the principle at the level of the Lebanese labor law.

In order to achieve that, we ask for coordination between the Parliament and syndicates to amend their bylaws to fit with the articles of the amended Labor law in 2010.

3 – With regards to Social Security:

The current social security law is the most important cases which prove to us the continuation of discrimination against Palestinian workers in Lebanon. Palestinian worker obliged to pay the full social security charges, but he does not benefit from its services only by end of the service and emergency work compensations, and prevent him benefit from sickness, maternity and family allowances funds.

This is one of the most prominent cases of injustice to the Palestinian worker, and it has an effect on reducing the Palestinian labor and not promote job opportunities, because the employer who is required to register the worker in social security fund and pay part of

the fees does not see the benefit factor for worker, and the employer will resort in this case either to circumvent the law and not registering the worker at all and avoid employing him in order not to pay his money for nothing.

We stress the need to amend the law in order to benefit the Palestinian Worker from full Social Security just like Lebanese worker.

Lebanese government is committed according to International Covenant of Economic and Social Rights to provide guarantees for residents and workers who resides in its territory, and accordingly we appeal the government to abide by human rights and international conventions and treaties.