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ABSTRACT:

Many countries have recently suffered from an increase in the rate of unemployment. This has been the result of several factors, including the competition from foreign workers and the lack of protection of national labor.

USA and Lebanon have both accepted Syrian refugees since the beginning of the Syrian conflict. However, the latter had a severe impact on the Lebanese economy compared to that of US. This is because around 1.5 million Syrian refugees have entered Lebanon compared to only few thousands moved to the US, with the difference in the economic abilities between both host countries.

This thesis provides a comparative study between the basic provisions of the US and Lebanese Labor Laws. It focuses on foreign employment with suggestions to curb the impact of the Syrian conflict on the Lebanese labor market. Although USA and Lebanon have special rules related to the acceptance and employment of foreigners, Lebanon failed to protect its national labor due to the lack of effective enforcement mechanisms.

KEYWORDS:

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Chapter One

Introduction

Labor law is a complex set of rules related to employment contract, conditions of work, labor unions, social security, and settlement of disputes. The main reason that lies behind the establishment of this law has been the insurance of minimum requirements in the contractual relation between employers and employees for the balance and protection of both parties’ interests. Historically, labor law can be traced back to the aftermath of the industrial revolutions. This is due to the fact that the rules that were present at that time failed to insure basic protection for workers. However, the development of labor law has been slow until the 20th century where labor codes entered into force. 1

In this section, we are going to discuss the origin of each of the US and Lebanese Labor Laws, with a brief overview of the situation in Lebanon.

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1.1 Origin of US Labor Law:

United States Labor Law can be dated back to the industrial revolution where employees suffered from harsh and severe working conditions. In the early 1900s, the United States started issuing laws to insure protection of the basic labor rights, which were mainly focused on the rights of the injured workers, minimum wage, standard work week, and child labor. After that, the US government has issued laws aimed at improving the working conditions, promoting health care, and prohibiting discrimination.2

The United States is a federal country. This means that there are two types of laws, the federal and state laws. Accordingly, the Federal law is issued by the US government, whereas the state laws are set by each state. It is noted that the latter must be set in conformity with the federal laws. The federal laws related to employment include the following major chapters; Wages & Hours, Workplace Safety & Health, Workers' Compensation, Employee Benefits, Unions & Their Members, Employee Protection, Uniformed Services Employment and Reemployment Rights Act, Employee Polygraph Protection Act; Garnishment of Wages; The Family and Medical Leave Act, Veterans' Preference, Government Contracts, Grants, or Financial Aid, Migrant & Seasonal Agricultural Workers, Mine Safety & Health, Construction; Transportation, Plant Closings & Layoffs, Posters, and Related Agencies.3

2 “Employment Law”, HG.org.
3 United States Department of Labor
1.2 Origin of the Lebanese Labor Law:

The Lebanese Labor Law was issued on 23 September 1946. The sources of this law are both domestic and international. Regarding domestic sources, the Labor Law complies with the constitution, local law, decrees, case law, and jurisprudence. At the international level, the sources include regional and international treaties. Although the law was issued in 1946, several provisions have been amended later on, such as Law of 30 April 1959 providing for Labor Day.

The first part of the Lebanese Labor Code includes several chapters. Chapter 1 deals with work contract and working conditions. The second chapter stipulates the conditions for the employment of children in one part, and that for the employment of women in another part. Chapter 3 is related to working hours, rest period, and sick leave. Whereas the fourth chapter includes general provisions regarding payment and salary, chapter 5 deals with dismissal from work. The latter chapter determines the conditions for the validity of dismissal and cases that are considered abuse of this right.

The second part is titled the Organization of Work. It enumerated cases whereby each of the employer and employee has the right to terminate the work contract without prior notice.

The third part is tilted Arbitration Board. It deals with the composition of the board which is responsible for solving disputes between employers and employees.

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\(^4\) Lebanese Code of Labor 1946  
\(^5\) Ibid
The fourth part is related to Trade Unions. It includes provisions related to the formation of trade unions, trade union management, and membership.

1.3 Situation in Lebanon:

Lebanon has been always known for its free-market and service-oriented economy, with dependence on tourism and banking. In the absence of an effective agriculture and industrial sectors, the primary source of income for Lebanon has been taxes and custom duties.

However, the political tensions and civil war that Lebanon faced between 1975 and 1990 had a dramatic impact on its economy. The instability continued after the civil war for years because of many reasons, which contributed to the destruction of the infrastructure and destabilization of the Lebanese economy.

To finance the reconstruction, the consecutive Lebanese governments depended on debt, mainly from domestic banks. As the budget deficit increased year after year, the debt and its interest grew dramatically reaching around 144% of GDP in 2016, putting more pressure on the government and placing Lebanon among countries with highest levels of debt.6

Due to the conflict in the region, many Palestinians have fled the war towards Lebanon since 1948. According to the United Nations Relief and Works Agency, there is around 450000 Palestinians in Lebanon, most of which live in camps. Another factor for

6 “About Lebanon”, UNDP.
the movement of foreigners to Lebanon is the Syrian conflict that began in March 2011. According to the UNHCR, around 1 million Syrians are registered, although the Lebanese government and NGO’s estimate that around 1.5 million Syrians have entered Lebanon since that time. \(^7\)

According to the International Labor Organization, the Syrian conflict caused a significant increase in the percentage of poverty in Lebanon.\(^8\) The World Bank estimated that around 200,000 additional Lebanese have become below the poverty line. The unemployment rate has also escalated reaching around 20%.\(^9\)

In Lebanon, the basic law concerned with employment is the Law of 23 September 1946. In addition to that, Lebanon issued another law regarding the employment of foreigners, as well as a law regulating the social security. Many of the provisions of these laws have been subject to amendments later on. However, the movement of a large number of Syrians into Lebanon after the conflict forced Lebanese authorities to take several decisions regulating their residence and work.

Throughout this research, we are going to compare the basic provisions of the Lebanese and US Labor Laws and how both laws deal with foreign employment. We are going to focus on the employment of Syrians in Lebanon and the US, with referral to the employment laws in some nearby countries.

\(^7\) “Syria Regional Refugee Response”, UNHCR.org

\(^8\) “Number of Syrian Refugees in Lebanon”, Union of Relief and Development Associations (URDA).

Chapter Two

Comparison between US and Lebanese Labor Laws:

The US and Lebanese Labor Laws have several provisions in common. However, it can be clearly noticed that the US law is more elaborated and detailed. In this section, we are going to compare some of the basic provisions of both laws, which are coverage, minimum wage, overtime pay, and child labor.

2.1 Coverage:

Not all US employees are covered under the Fair Labor Standards Act (FLSA). A distinction can be made between enterprise and individual coverage.

For enterprises, employees are covered under two cases; either the total annual sales exceed $500000; or the enterprise is a hospital or provides medical or nursing care.

Individuals may be also protected even when they do not benefit from enterprise coverage. This is the case when they engage in interstate commerce, including producing goods that are traded between states, or any other related transaction.

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10 The Fair Labor Standards Act (FLSA) is a US Federal law that was issued in 1938 and amended later on. It stipulates the minimum wage, overtime pay, employment of minors, and other employment related matters that are implemented in the private and public sectors.
In addition to that, FLSA may cover other employees that perform domestic work, such as gardeners and housekeepers.

However, certain employees are exempted from the minimum wage act, under certain narrowly defined conditions. These include, but not limited to, newspaper delivery employees, professional employees, experienced computer professionals, executives, and farmers in small farms.

Similarly, not all workers are subject to the Lebanese Labor Law. Article 8 of the Lebanese Labor Code stipulates that all employers and employees are subject to this law, with the exception of those that have been excluded by other provisions. In addition to that, establishments, whether industrial or trade, domestic or foreign, private or public, religious or sectarian, are all subject to the Labor Law. Domestic and foreign educational agencies, charitable institutions, and foreign corporations that have a branch or agency in Lebanon are also subject to this law.

On the other hand, article 7 of the Lebanese Labor Code excluded certain employees from its coverage. These include domestic workers and agricultural unions that are not related to trade or industry. Personal establishments that only employ family members are not subject to this law. In addition to that, governmental agencies and municipal entities with respect to their daily and non-permanent employees are subject to different rules.
2.2 Minimum Wage:

According the FLSA, the minimum wage in the US is computed on hourly basis. In 1938, the rate was $0.25 per hour. However, it has been subject to many amendments after that. Currently the minimum wage is $7.25 per hour, effective July 4, 2009.

Some employees may be paid on a piece rate basis. In this case, they should receive a wage equivalent to the minimum rate. Regarding tipped employees, those who receive above $30 tips per month, should be paid at least $2.13 per hour, provided certain requirements exist.

States may have a different rate than that determined by the federal; in this case the higher minimum wage prevails. Employees under the age of 20 have a minimum wage of $4.25 per hour for the first 90 consecutive calendar days, not working days. There are certain cases where individuals may be paid a rate below the minimum wage after the approval of the Department of Labor. These include employees having certain disabilities, student learners, and full time students working in agriculture or other establishments.

In Lebanon, articles 44 to 49 deals with wages. Article 44 stipulates that the minimum wage should be sufficient to cover the employee’s basic needs and his family’s, taking into consideration the type of work under the condition that it does not fall below the minimum national wage. Article 45 adds that the minimum wage is determined by committees including representatives from the ministry of labor, employers, and
employees. Whereas the Code didn’t indicate a minimum wage, it stated that the minimum wage should be amended when the economic conditions necessitate that.

In fact, several laws and decrees have amended the minimum wage in Lebanon. The first was law 36/67 on 16/6/1967 that determined the minimum wage by 160 Lebanese pound. Article 1 of this law specified some conditions, whereby all men and women who are 20 years old and above, work in a certain organization, and do not have any other source of income can benefit from this wage.

In 2008, the minimum wage has been raised to 500000 Lebanese pound. Article 2 stipulated that additional 200000 Lebanese pound should be added to the basic wages that employees have been earning on 30/4/2008 due to the increase in the cost of living.

The minimum wage has been increased to 675000 Lebanese pound starting 1/2/2012, around 30000 Lebanese pound daily.

Regarding the currency, wages should be determined according to the national currency even if agreed to the contrary. It should be paid once or twice a month according to the type of work. If workers perform their work per piece, then their wage should be paid according to what the parties agreed on. However, payments must be paid every 15 days, until the employee receives his final payment after 15 days of finishing his work.
2.3 Overtime Pay:

According to the FLSA, employees that are covered by its provisions must be provided with overtime pay for hours worked above 40 in a given workweek, at a minimum rate one and half their initial wage per hour.

Similarly, article 33 of the Lebanese Labor Code stipulated in section 3 that the overtime-hourly rate should be 50 percent above the normal rate received by the employee.

2.4 Child Labor:

The child labor laws under FLSA insured protection for individuals below the age of 18 that are seeking employment. The requirements and conditions vary according to age groups. Youths under the age of 14 are only allowed to perform simple works such as delivering newspapers; acting in movies or theaters; babysitting on occasional basis; working as homeworker gathering evergreens; and working in parent owned unhazardous business.

Youths between the age of 14 and 15 have limits regarding the hours and the type of work they can perform. Regarding working hours, the work must be done outside school hours. They should not work for more than 3 hours per day, including Fridays, or more than 18 hours a week during school season. They are also prohibited from working for more than 8 hours a day or 40 hours a week outside school season. They cannot work
before 7a.m or after 7 p.m. in all days except from the beginning of January until the Labor Day, where the time can be extended till 9 pm.

Regarding job restrictions, youths between 14 and 15 are allowed to perform several jobs including delivery work by foot, intellectual work, and tutoring.

The third group includes youths between 16 and 17 years. There are no federal restrictions on the number of hours worked. Regarding the type of work, this group can perform any work that is not considered hazardous by the Secretary of Labor. 11

Once the individual turns 18, he is normally considered an adult and is not subject to the youth rules.

In Lebanon, articles 21 to 25 cover the employment of children. Youths under the age of 13 are prohibited from working. Children should be subject to medical tests to prove their ability of conducting the work they are intending to pursue. These examinations are provided for free by the Ministry of Health until the child turns 18. This certificate may be revoked if the child is no longer able to perform his work.

Youths under the age of 15 are prohibited from working in certain fields and jobs which are strenuous or affect their health. These jobs have been enumerated in Annexes 1 and 2 of the labor law.

Annex 1 listed industries that children and women are prohibited from working in. These include working in mines, mineral products, explosives, glass melting, welding, alcoholic drinks, certain types of painting, driving engines, asphalt, and warehouse of fertilizers.

However, youths may work in such fields as trainees if the employer has obtained authorization from the responsible bodies.

Annex 2, on the other hand, enumerated industries that adolescents may work in if they hold a medical certificate. These include production of soap, fertilizers, glue, leather, cement, sugar, glass, and paints; pressing and spinning cotton and silk, printing, construction work with some exceptions, transporting people and goods by road, and producing tobacco.

In addition to that, article 23 prohibited adolescents under the age of 16 to work in any job that is dangerous, affect their life, health, or violate morals.

Enterprises that conduct vocational training may not abide by the provisions 22 and 23 if the youth is above 12 years old, and the conditions of work have been approved by the responsible authority.\textsuperscript{12}

\textsuperscript{12} Lebanese Code of Labor 1946
Chapter Three

Foreign Employment

Each of the US and Lebanon have different policies regarding the employment of foreigners. Foreigners willing to work in the US are subject to a detailed screening process conducted by different agencies on different phases. On the other hand, Lebanon has simpler procedures concerning foreigners. In addition to that, the foreigners’ right to benefit from the social security system differs in both countries.

3.1 Foreign Employment in USA:

Foreigners seeking employment in the United States are required to obtain authorization from several government agencies.

First, employers should obtain certification from the US Department of Labor. These documents vary according to the type of work the employee is seeking to perform. The application contains information about the employer, agent, wage, job description, recruitment information, and information about the worker.

If the application is approved, the employer should apply for a visa with the US Citizen and Immigration Services (USCIS). The category of visa depends on the type of work to be performed. Workers can be classified as temporary, permanent, and student workers.
Regarding temporary workers, the employer must apply for a visa on behalf of the employee. Temporary workers are classified into several categories including “treaty traders and qualified employees; treaty investors and qualified employees; registered nurses working in a health professional shortage area; temporary or seasonal agricultural workers; temporary non-agricultural workers; trainees; representatives of foreign press; intracompany transferees in managerial or executive positions; persons with extraordinary ability in science, arts, and education; internationally recognized athletes; and religious workers.”

Each of the following categories has its own requirements regarding qualification of persons, process, period of stay, eligible nationalities, and other conditions. However, one common requirement is that the employer must prove that there are no sufficient US workers who are qualified or suitable to perform the job. 13

The second category of workers is permanent workers. It includes aliens who immigrate to the United States to perform a certain type of job. The permanent worker visa is divided into five categories; persons with extraordinary abilities in some fields such as business, education, research, executives, arts, science; employees holding advanced degrees or exceptional abilities; professionals and skilled workers; “special immigrants” including religious workers and retired employees of international organizations; business investors with a minimum investment of $1 million or $500000 (in a targeted area) in a new commercial entity that employs 10 or more full time US

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employees. Each of the following categories has a set of requirements including skills, experience, and previous achievements.\textsuperscript{14}

\section*{3.2 Foreign Employment in Lebanon:}

The employment of foreigners in Lebanon is regulated by decree 17561 issued on 18 September 1964. Article 1 points out the principle of reciprocity, meaning that the acceptance of foreign workers in Lebanon may differ depending on the rules of applicants’ home country. It also clearly points out the application of conventions that has been approved by the legislator or by the Ministry of Labor and Social Affairs.

The process of foreign employment in Lebanon can be divided into several consecutive phases.

First, the alien should obtain a prior approval from the Ministry of Labor and Social Affairs, with the exception of artists that are granted approval by the General Security. This application is filed through the Lebanese Mission abroad or through the legal representatives of the alien in Lebanon.\textsuperscript{15} It includes information about the alien, his name, date of birth, religion, nature and duration of work, skills, capabilities, and the name of his employer if possible. In addition to that, the foreigner should sign an undertaking that the approval is personal and do not extend to his family.\textsuperscript{16}

\textsuperscript{14} “Permanent Workers”, US Citizenship and Immigration Service.
\textsuperscript{15} Articles 2 and 3 of decree 17561
\textsuperscript{16} Article 4
If the alien is a wage or salary earner, his employer should submit to the Ministry of Labor an application declaring his approval of the alien’s arrival, as well as other supporting documents. In addition to that, the employer should present a work contract ratified by a notary public or other member of the Lebanese diplomatic mission abroad.

On the other hand, if the alien wishes to work on his account or represent a company, he must submit copy of the evidence confirming the bona fides of his declarations and stating his willingness to employ Lebanese workers.  

The second step is the work permit. After receiving prior approval, the alien is required within 10 days of arriving to Lebanon to request a work permit from the Ministry of Labor. If the alien failed to apply for the permit within 10 days or didn’t enter Lebanon within 3 months of receiving his prior approval, the latter may be canceled.  

It is important to point out that the permit is considered an extension of the prior approval. This implies that if the term of the permit elapses, then the prior approval is suspended.

The decree clearly states preferential rights for Lebanese nationals. However, an alien seeking to work in Lebanon may be granted a work permit under certain situations. The first criterion is based on the alien’s qualifications, if he has certain unique capabilities to perform a job that cannot be done by Lebanese nationals. The employer may be required to submit a notice stating the nature of the job and the needed skills.

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17 Article 5
18 Article 6
The second criterion for granting work permit is residency, if the alien has entered Lebanon before January 1, 1954 and have been working for at least nine consecutive months each year.

The third situation is the alien being married to a Lebanese national for at least one year.

The fourth criterion is the alien born to a Lebanese mother or if he is a Lebanese descent.

The fifth case is related to companies, whereby the alien is a manager, chief accountant, or a deputy manager of a foreign company or its branches in Lebanon or Middle East. Article 8 adds another case for granting work permit where the alien is a representative of a foreign company and is not engaged in a direct activity with the public.

The seventh situation is the alien pursuing a profession, handicraft, and other work on his own expense if two conditions exist. The first is if he has been residing in Lebanon before 1954 and started his work before 1960; the second condition is the alien has entered Lebanon after 1960 or wished to have residence, on condition that his capital exceeds L.L 100 million and employs at least three Lebanese. If the aliens created a partnership, the capital of each should not be less than L.L 100 million, with the employment of at least three Lebanese. 19

To ensure additional protection, the Ministry of Labor determines each year the jobs and professions that should be limited to the Lebanese nationals. 20 In addition to that, special protection has been granted to Lebanese teachers, whereby the Minister of

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19 Article 8
20 Article 9
Labor and the Minster of National Education set the conditions for foreign teachers to carry on their profession in private schools located in Lebanon.\textsuperscript{21}

The work permit may be granted or renewed for a maximum of three years starting from the date of its issue. \textsuperscript{22} Once the work permit has been issued, the alien is prohibited from changing his job before obtaining another approval from the Ministry of Labor. \textsuperscript{23}

Article 17 stipulated the cases under which the permit may be cancelled. First, if the concern dismissed a Lebanese worker according to article 50 of the Lebanese Labor Law, while retaining a foreign worker with the same qualifications.\textsuperscript{24} The second case is if the concern does not give priority to a Lebanese worker meeting the required qualifications, or if the concern fails to train a Lebanese worker instead of the foreigner. In addition to that, the permit may be cancelled if the foreigner violates the conditions set in the prior approval or the work permit, or if he has been convicted of a crime. \textsuperscript{25}

\section*{3.3 Social Security System for Foreigners in USA:}

The social security system in the United States was established in 1935. It is based on contributions made by employees during their employment period. The benefits
include Retirement, Disability, and Survivors; Sickness and Maternity; Work Injury; Unemployment; and Family Allowances. 26

All employees, including foreigners, have the right to benefit from the Social Security System. The Social Security Number is necessary to get a job, in addition to other governmental benefits. However, some employees are excluded such as agricultural workers. Both the employee and his employer are required to contribute to this fund with a certain percentage, which differs between branches. 27

3.4 Social Security System in Lebanon:

The social security in Lebanon is governed by decree 13955 of 26 September 1963. The security fund is divided into four branches which are Sickness and Maternity Care, Work Related Accidents and Diseases, Family Allowance, and End of Service Pensions. 28

All Lebanese workers including full time and part time, permanent and seasonal workers are in principle subject to the social security law on condition they perform their work within the Lebanese territory. 29

All foreign workers in Lebanon and their employers are subject to the law, concerning sickness and maternity care, work related accidents and diseases, and family allowance. Employers of foreigners are not obliged to contribute to the end of service branch, unless the foreigner has the right to benefit from this branch. Regarding the

27 Ibid.,
28 Decree 13955 of 26 September 1963, Article 7.
29 Article 9 of Social Security Law, Decree 13955, September 26, 1963.
benefits, foreign workers have the right to benefit from the social security system if they hold a work permit, and if their country of origin grants Lebanese workers an equal treatment.

However, foreign workers working in Lebanon through contracts signed with foreign companies outside Lebanon are not subject to this law, if the employer is able to prove that the worker benefits from a similar or additional protection in his country of origin or the country in which the contract was concluded.\textsuperscript{30}

\textsuperscript{30} Ibid.,
Chapter Four
The Employment of Syrians in USA, Lebanon and Nearby Countries:

The conflict in Syria forced millions of Syrians to leave their country seeking protection and better living conditions. Each country has imposed different regulations to control the entrance and work of Syrians. In this section, we will discuss the policies that each of the US and Lebanon have followed regarding the employment of Syrians. We will also highlight how Jordan and Turkey dealt with the issue of Syrian refugees.

4.1 Employment of Syrians in the USA:

The immigration of Syrians to the US can be divided into three main phases. In the late 19th century, many Syrians left Syria due to the violence that took place during that time, especially against Christians. The second phase took place during the 1960s due to the Immigration and Nationality Act of 1965 that replaced the national origin quotas that have been followed in the US. The third wave of immigration was due to the recent conflict in Syria. 31

It has been noticed that the United States has been accepting Syrian refugees who are most vulnerable, whereby around 72% are children and women.

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The United States Refugee Admission Program (USRAP) is responsible for the issues of refugees through its several organs. It involves several agencies such as UNHCR, Resettlement Support Centers, Department of Homeland Securities, and Non-Governmental Organizations. According to the US law, a refugee is a foreigner who fled his home country out of persecution or fear of persecution or any other humanitarian concern.

The number and nationalities of persons to be accepted as refugees are determined each year by the President of the United States in coordination with the federal authorities, with priorities provided in certain situations.

Currently, priorities followed in accepting refugees are persons referred by the UNHCR, the US Embassy, or other designated institutions. Second come cases that require certain concerns as determined by the responsible authorities in the USA. After that are cases involving family ties and unifications.

In 2016, around 15500 Syrian refugees have been resettled under Obama’s presidency. Under Trump’s administration, around 3000 Syrians refugees were accepted in the US in 2017, and only few have entered so far in 2018. This decrease has been due to the strict policies President Trump has been following regarding foreigners.

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34 “History Of The U.S. Refugee Resettlement Program”, Refugee Council USA.
Syrians seeking entry to the US are subject to a detailed screening process. Applicants must first register with the UN High Commissioner for Refugees, which is responsible for collecting data about them. After that, the UNHCR validates that the applicant holds the refugee status and is seeking protection. The applicant should also meet the criteria of a refugee under the US rules. An interview is then conducted by the Resettlement Support Center which is responsible for gathering security information, in addition to the analysis of the refugee’s biography to check his history. The biographic and biometric checks are conducted on several phases by different departments. Applications are then reviewed by the US Citizenship and Immigration Services that conducts another interview with the refugee abroad to determine his or her eligibility for resettlement in the US. If accepted, refugees undergo health test followed by orientation classes, after which they are referred to a resettlement agency within the US that plays the role of the sponsor.37

Normally, any foreigner applying to enter the US as a refugee should be interviewed by the Department of Homeland Security. However, in case of families, all the members are interviewed but it is enough for one member to meet the required criteria. If accepted, the applicant can pass the refugee status to his spouse and unmarried children under the age of 21.38

Concerning the type of protection, Syrian refugees have the option to apply for asylum status, refugee resettlement, or temporary protected status (TPS).39

38“ The Resettlement Process”, Refugee Council USA.
Before arriving to the US, refugees are assigned to a resettlement agency in coordination with the federal government. Its role includes providing the refugee with the necessary services such as accommodation, education, employment, and health services. The agency also matches the need of each refugee with the available opportunities, unless the refugee has relatives inside the USA whereby resettlement will usually be next to them.

Once the refugee reaches the US, the resettlement agency sends a representative to assist and guide him to the designated apartment. The traveling costs from the refugee’s home country to the United States are covered, but are considered a loan that the refugee should pay after his arrival.

Refugees also receive additional support in starting their living, such as social security and education for their family members. During the first few months, refugees receive certain payments to cover their necessary expenses.

Concerning employment, refugees have the right to work as soon as they reach the US, where opportunities differ according to their skills and experience. After a period of one year, refugees are obliged to apply for a Green Card, after which their status changes to Legal Permanent Resident. They are also granted the right to apply for US citizenship after 5 years of their arrival.

41 “The Reception and Placement Program”, US Department of State.
42 Ibid.,
43 Ibid.,
44 “The Reception and Placement Program”, US Department of State
A refugee that has already approached the US has the right to file a petition requiring his spouse and unmarried children under the age of 21 to join him. The filing should take place within 2 years from arrival to the US.\textsuperscript{45}

Syrians who have already entered the United States or reached the US borders have the option to apply for asylum protection. Asylum seekers are individuals who left their home country due to persecution or out of fear of being persecuted as a result of their religion, political thoughts, race, belonging, or nationality. Individuals granted asylum in the US have automatic right to work without any formalities.\textsuperscript{46}

This can be done through an application filed with the US Citizenship and Immigration Services within one year of entry to the US, or filed with an immigration judge. It has been noted that the number of Syrians who received asylum status have increased significantly in the recent years, from 60 approvals in 2012 to around 600 in 2015.\textsuperscript{47}

In 2012, US authorities granted Syrians the option to apply for Temporary Protection Status (TPS). This measure is considered protection against deportation which is usually associated with the right to employment. It has been estimated that around 5000 Syrian nationals have benefited from the TPS in 2015.\textsuperscript{48}

\textsuperscript{45} Ibid.,
\textsuperscript{46} “Asylum”, US Citizenship and Immigration Services..
\textsuperscript{47} Jie Zong, “Profile of Syrian Immigrants in the United States”, p4.
\textsuperscript{48} Jie Zong, p 4.
4.2 Employment of Syrians in Lebanon:

Several bilateral agreements have been signed between Lebanon and Syria related to the economic coordination between both countries. In 1993, Lebanon and Syria signed an Agreement on the Regulation of Transport of Persons and Goods. According to this agreement, both countries should ease the movement of persons and goods across their borders. Another related agreement is the Agreement for Economic and Social Cooperation and Coordination, which explicitly stated the freedom to work according to the laws and regulations of both countries. In 1994, Lebanon and Syria signed the Bilateral Agreement in the Field of Labor, which ensured that workers in both countries are subject to the rights and obligations according to the laws in force.\textsuperscript{49}

However, on January 5, 2015, Lebanon ended the open border policy that it has been following with Syria. The General Security issued more restrictive regulations regarding the entry and residence of Syrians.\textsuperscript{50}

On January 3, 2017, the Minister of Labor issued a decision regarding the procedure of providing and renewing the work permit for foreign workers. In granting prior approvals and work permits, the employer can employ one alien for a minimum of 10 Lebanese workers, with the exception of companies that deal with cleaning where it can employ 10 aliens for one Lebanese worker.

\textsuperscript{49} “Syrian Workers in Lebanon”, Lebanese Centre for Human Rights, December 18, 2013.
\textsuperscript{50} “I Just Wanted to be Treated like a Person’, How Lebanon’s Residency Rules Facilitate Abuse of Syrian Refugees”, Human Rights Watch, January 2016.
Construction companies are authorized to employ one foreigner for each Lebanese worker.\(^{51}\) Article 7 added certain exceptions to the above rule, whereby the foreigner is treated as a national worker and thus is not subject to the above rule. The first exception is if the foreigner is born in Lebanon or married to a Lebanese; or if the foreigner is a registered Palestinian refugee; or if the foreigner is a domestic worker, concierge, nanny, or works in the agricultural sector if certain conditions are met.\(^{52}\)

Regarding the jobs and professions that Syrians are allowed to conduct, the Minister of Labor issued a decision listing the works that are exclusively limited to Lebanese. As a result, Syrians are allowed to work in agriculture, construction, and environment, or some other work upon the approval of the Minister of Labor.\(^{53}\)

There are certain exceptions whereby foreigners, including Syrians, may be allowed to work in certain professions upon the approval of the Minister of Labor. A foreigner may work as technician or specialized worker if it is proved that no Lebanese can perform the same work; or if the foreigner is born to a Lebanese mother or has a Lebanese decedent; or if he is domiciled in Lebanon since birth; or if he is chairperson or representative of a company registered in Lebanon.\(^{54}\)

The former Labor Minister allowed hospitals to employ Syrians as nurses due to the lack in the number of Lebanese workers in this field.\(^{55}\)

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\(^{51}\) Article 4 of Decision 1/49, February 3, 2017.

\(^{52}\) Article 7 of Decision 1/49, February 3, 2017.


\(^{54}\) Article 3, Decision 1/29, February 15, 2018.

\(^{55}\) Legal Agenda, March 4, 2016.
Based on the new regulation issued on January 5, 2015, Syrians entering Lebanon are classified into two groups. Syrians who are registered with the UNHCR are required to prove their registration and sign a pledge before the notary public not to work in Lebanon. However, those not registered have to present a “pledge of responsibility” signed by a Lebanese for the process of obtaining a work permit.\textsuperscript{56}

The aim of these policies is to reduce the number of Syrians in Lebanon, by imposing additional constraints on their residency and employment.

Regarding the fees, Syrians seeking work in the allowed sectors (agriculture, construction, and cleaning) should pay around LBP 120000 for the work permit. In addition to that, Syrian workers are obliged to pay full contribution to the National Social Security Fund without benefiting from total coverage.\textsuperscript{57}

\textbf{4.3 Jordanian Labor Law Regarding Refugees:}

Jordan has a large number of refugees and asylum seekers, mainly from Syria and Iraq. It has been estimated that around 1.2 million Syrian refugees entered Jordan since the beginning of the crisis. This has increased the burden on Jordan’s government to host these refugees with limited national resources available. In order to ensure security,

\textsuperscript{56} “‘I Just Wanted to be Treated like a Person’, How Lebanon’s Residency Rules Facilitate Abuse of Syrian Refugees”, Human Rights Watch, January 2016, p 14.
responsible authorities in Jordan have established two camps to host Syrian refugees, the Azraq and Zaatari camps.

The right to work is exclusively reserved to Jordanians according to Jordan’s Constitution. Foreigners have the right to work in Jordan in a limited number of professions. These include teaching, driving, engineering, and some jobs in industrial and medical domains. The 1973 Residence and Foreigners’ Affairs Law obliged refugees that are seeking work in Jordan to obtain residency and work permits. However, additional requirements may be needed for certain professions. For example, doctors should hold a working license and be registered in a Union in any Arab country, taking into consideration the principle of reciprocity; foreign lawyers willing to work in Jordan should hold Jordanian citizenship for a minimum of 10 years. Yet, the responsible minister may exempt some individuals of the previous requirements based on humanitarian reasons.58

Jordan has not ratified the 1951 Refugee Convention. As a result, refugees in Jordan have no special status. In 1998, Jordan signed a Memorandum of Understanding with the UNHCR, which has been partially amended in 2014. This MOU stipulated the main principles of international protection for refugees. It provided that refugees legally residing in Jordan have the right for a suitable living for them and their families. It also provided workers holding recognized degrees the right to pursue their professions according to Jordanian laws.59

58 Article 29 of Law No.24 of 1973 on Residence and Foreigners’ Affairs
59 Articles 8 and 9, Memorandum of Understanding between the Government of Jordan and UNHCR, 5 April 1998.
According to the International Labor Organization, around 10% of the refugees working in Jordan hold a work permit, while the rest work illegally and may be subject to exploitation.60

In an attempt to minimize the economic effect of the crisis, Jordan entered into an agreement with the European Union in 2016. The objectives of this agreement, known as the Compact, are improving the cooperation between EU and Jordan; enhancing the living conditions of Syrian refugees; ensuring security and stability; and dealing with the temporary Syrian residents in Jordan. In addition to that, the Compact aimed at changing the crisis into an opportunity by creating job opportunities for Syrian refugees and Jordanians in Jordan, with a target of 200000 jobs. It also aimed at providing the necessary funds to attract new investments and support the economy. The plan will be focused on five zones that will primarily benefit from the funding.

In order to trigger investments in Jordan, a new agreement has been signed with the EU at the London Conference in order to relax the rules of origin for 10 years targeting a variety of products. As a result, Jordanian companies are obliged to have a minimum of 15% Syrian workers.61

To benefit from EU support, Jordan amended some of its policies, but retaining those necessary to the protection of the Jordanian nationals. For example, Jordan authorized the issuing of work permits for refugees free of charge for a certain period.

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60 “Overview of Right to Work for Refugees Syria Crisis Response: Lebanon and Jordan”, International Rescue Committee.
Furthermore, EU and Jordan reached an agreement to facilitate trade between them and enhance Jordan’s exports to the EU. 62

Syrian refugees have been encouraged to start or formalize their own business, which will be subject to tax. They are also encouraged to participate in municipal and other private sector projects funded by the EU.

For example, ShamalStart is one of the projects that have been funded by the European Union. It is a private project located in North Jordan that provides support for Syrian and Jordanian entrepreneurs to develop their ideas.

However, certain barriers have prevented the full achievement of the agreement’s goals. The procedure of formal work has increased the cost on employers compared to informal work. Another problem is the improper working conditions and the lack of employee benefits in many cases. In addition to that, there has been a mismatch between employers and employees, in addition to a mismatch in the employees’ skills with the available opportunities. 63

4.4 Turkey Labor Law Regarding Refugees:

Turkey has witnessed movement of refugees since the beginning of the 20th century. Surrounded by a troubled region, Turkey has received a vast number of refugees and asylum seekers fleeing the conflicts in neighboring countries. In 1989, thousands of

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refugees entered Turkey from Bulgaria, followed by half million Kurds that fled from Iraq in 1991. Recently, the conflict in Syria has forced many Syrian to move to Turkey. It is estimated that around 3.1 million refugees of different nationalities moved to Turkey, of which 2.7 million are Syrians.\textsuperscript{64}

From a legal point of view, Law No 2510 regulated the settlement of foreigners in Turkey. Between 1934 and 2006, only individuals having Turkish origin and culture had the right to asylum in Turkey. After 2006, a new law has been issued regarding the settlement of refugees, but also referred to the nationality of the person.

Unlike Jordan and Lebanon, Turkey ratified the 1951 Convention related to the Status of Refugees in 1962, as well as the 1967 Protocol in 1968, which ensured protection for refugees. In 2005, Turkey introduced the National Action Plan for Adoption of Acquis on Asylum and Migration, related to the legal structure of foreigners. In 2013, Turkey issued the Law on Foreigners and International Protection related to entry, stay, and exit of foreigners.

After the Syrian conflict, Turkey issued the Temporary Protection Regulation. This law deals with foreigners that have been forced to flee their countries seeking for protection.

Regarding work permits for foreigners, the Ministry of Labor and Social Securities is responsible for issuing these permits. First, the foreigner should submit an application for the work permit signed by the prospective employer, unless otherwise provided in bilateral or other agreements. The permit is valid for one year, but may be extended up to six years taking into consideration the economic and social situation in the country. The

\textsuperscript{64} “Turkey” Labor Market Integration and Social Inclusion of Refugees”, European Parliament, December 2016, p10.
law also stipulated the possibility of providing a permit for indefinite period if the foreigner has resided in Turkey for a minimum of eight years.65

Although Turkey ratified the 1951 Convention and 1967 Protocol, article 1-B stipulated geographic limitation of the Convention limiting its application to refugees coming from Europe. As a result, Syrian, Iraqi, and other non-European refugees are not subject to the 1951 Convention.66 However, this does not mean that refugees from non-European countries are not entitled to protection, but it rather implies that Turkey is not bound towards the latter according to the provisions of the 1951 Convention. Yet, Turkey has ensured protection for refugees in its domestic laws regardless of their countries of origin.

In 2013, Turkey adopted a new Law on Foreigners and International Protection (LFIP). This law is applied to all asylum seekers regardless of their nationality.

Regarding Syrian refugees, the geographic limitation of the 1951 Convention excludes them from the latter’s protection. Before the LFIP entered into force, Syrian refugees have been granted protection on an ad hoc basis. However, in 2014, The Temporary Protection Regulation was issued. This law ensured Syrian with their basic rights, including the right to stay, non-refoulement, free health care, and work permits.67

The new law stipulates that any individual applying for refugee or asylum status have the right to file for work permit six months after his request for protection. If accepted, the refugee has the right to work either independently or through an employer, but respecting

65 Article 6 of Law No. 4817, Law on the Work Permit for Foreigners.
67 “Introduction to the Asylum Context in Turkey”, Asylum Information Database.
the provisions related to the jobs that foreigners may perform. In principle, the refugees’ right to work is limited for a certain period. However, those who have been residing in Turkey for more than three years, or married to a Turkish national, or have children holding Turkish nationality are not subject to restrictions.

Based on the Regulation of Temporary Protection, the number of workers benefiting from protection must not exceed 10% of the Turkish nationals employed in a given workplace, unless the employer proves that nationals are unable or unwilling to perform the job. Foreigners should be paid no less than the minimum wage determined.

Law of Foreigners and International Protection dedicated a special part for refugees and asylum seekers. The law distinguished between refugees, being those who fled from European countries due to fear of being persecuted; conditional refugees, those who came from non-European countries; and subsidiary protection, given to individuals who are neither classified as refugees nor conditional refugees, but found in a situation that necessitates their need of protection.
Chapter Five
Empirical Study

5.1 Methodology:

From a practical point of view, we conducted a study on the Lebanese labor market to test the foreigners’ awareness of the Lebanese rules and regulations. The hypotheses that have been tested are the following:

Hypothesis 1: The percentage of Syrian workers in Lebanon who are not aware of the Lebanese Labor Law is more than 50%.

Hypothesis 2: The percentage of Syrian workers who believe that they are obliged to have a prior approval is less than 50%.

Hypothesis 3: The percentage of Syrian workers who believe that they are obliged to hold a work permit is less than 50%.

Hypothesis 4: The percentage of Syrian workers who believe that they are not subject to the National Social Security permit is more than 50%.

A questionnaire was addressed to a sample of 80 foreign workers, mainly Syrians located in Beirut and Mount Lebanon areas. To avoid any misunderstanding, an Arabic version questionnaire was distributed.
The sample included daily and permanent workers that perform their work in companies of different types including industrial and educational institutions. The questionnaire was also addressed towards independent and self-employed workers. When necessary, the consent of the employer has been insured before distributing the questionnaire.

The questionnaire contained 28 close-ended questions targeting different provisions of the Lebanese law. Their aim was to test the foreign workers’ knowledge of their rights and obligations under Lebanese labor rules and regulations.

After the data have been gathered, it has been analyzed using simple software, reaching the following results.

5.2 Results:

The questionnaire has been mainly distributed to Syrian workers working in Lebanon. Almost all the workers were male, with the exception of few.

Around 48% of the workers had primary education or below, while 45% had secondary education. Only few hold higher education degrees.

This implies that most Syrian workers in Lebanon are not highly educated, which is reflected in the type of work they perform. It is important to point out that if these workers are performing simple work, then this is normal; however, if these workers are performing technical work or work that requires high educational levels, then this will be reflected negatively in the efficiency of their work.
Regarding the age group, around 35% of the workers were between the age of 18 and 24, followed by 34% between the age of 25 and 34. Around 19% of the respondents were between 35 and 44, while only few were above 45 years old.

As a result, the majority of Syrian workers in Lebanon fall between the age of 18 and 34 years, which is necessary for performing work that requires high physical abilities.

Regarding the date of starting work, around 35% of workers started their work in Lebanon before 2011. The same percentage of workers began their work between 2011 and 2015, while around 30% started their work after 2015 (figure 1).

![Figure 1: Date of Entry of Syrians to Lebanon](image)

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This reflects that the Syrian conflict that began in 2011 contributed to the increase in the number of Syrian workers in Lebanon.

The highest percentage of workers came to Lebanon seeking better job opportunities, followed by better income. Few came to Lebanon seeking stability (figure 2).

![Reasons for Work in Lebanon](image)

This shows that the many Syrians came to Lebanon not as refugees, but as economic migrants. As a result, the rights and obligations of the latter differ from that of refugees, and thus should not receive the benefits attributed with the refugee status.

Most workers performed basic simple work in Lebanon, whereby the highest percentage of workers performed construction work followed by agricultural work. This is also reflected in the degree of skills Syrian workers have, whereby around 80% of the
respondents were semi and non-specialized workers, while only few were specialized (figure 3).

Figure 3: Foreigners’ Skill Levels

This reveals that Syrian workers in Lebanon are mainly non-specialized that perform simple and non-technical work.

Concerning wages, the majority of respondents earned a wage below 400000LL as a last wage before coming to Lebanon (figure 5). On the other hand, the highest percentage earned between 400000 and 600000LL, while only around 32% earned below 400000LL in Lebanon (figure 4). Although most foreign workers earn higher wage in Lebanon, most do not benefit from other contributions, while only few benefit from medical assistance and free food.
Figure 4: Monthly Income of Syrians in Lebanon (LL)

Figure 5: Monthly Income of Syrians before Coming to Lebanon (LL)
This reflects that Syrian workers are seeking employment in Lebanon for better income, which is clearly depicted from the difference between the earnings in Lebanon and Syria.

Concerning the professions that foreign workers are allowed to perform in Lebanon, the highest number of workers considered that construction work is allowed, followed by 39% for agriculture. Around 29% answered for cleaning, while 21% for hospitality and food. Only few considered that engineering and banking are allowed to be performed by foreigners.

This implies that most Syrian workers are aware of the professions they are allowed to perform in Lebanon, with the exception of the food and beverages industry.

Around 36% of workers did not know whether the work they do can be performed by Lebanese, compared to 49% that were fully or partially aware.

Two questions were related to the degree of stability and clearness of the Lebanese rules and regulations.
The highest percentage considered the laws are neither consistent nor clear, followed by a high percentage that did not know whether the laws are consistent (figures 6 and 7).
This can be interpreted by the fact that several authorities are responsible at the same time for regulating the work of foreigners in Lebanon, which leads in many cases to the issuing of contradicting rules at the same time, or changing the rules more often. For example, each of the General Security and the Ministry of Labor issues rules concerning the employment of foreigners, which in many cases are inconsistent due to the tensions between the two authorities. This is reflected in the content of the rules as well as the degree of their change which creates confusion among the bodies responsible for imposing such rules, as well as among the foreign workers themselves.

Regarding the knowledge of the Lebanese Labor Law, the tested hypothesis was that the percentage of Syrian workers in Lebanon who are not aware of the Lebanese Labor Law is more than 50%.

![Awareness of Lebanese Law](image)

**Figure 8: Syrians’ Awareness of the Lebanese Regulations**
We performed an upper tailed z-test. The sample data provided a significant evidence to support hypothesis 1 (\( z = 3.86 \); \( p \)-value= 0.0001).

We concluded that the majority of Syrian workers in Lebanon are not aware of the Lebanese Labor Law.

Hypothesis 2 was that the percentage of Syrian workers who believe that they are obliged to have a prior approval is less than 50%.

![Obligation to Have a Prior Authority](image)

**Figure 9: Obligation of Syrians to Have Prior Approval**

We performed a lower tailed z-test

The sample data provided a significant evidence to support hypothesis 2 (\( z = -2.27 \); \( p \)-value= 0.0115).
We concluded that the majority of Syrian workers are not aware of their obligation to hold a prior approval under Lebanese Labor Law.

Hypothesis 3 was that the percentage of Syrian workers who believe that they are obliged to hold a work permit is less than 50%.

We performed a lower tailed z-test.

The sample data provided a significant evidence to support hypothesis 3 ($z = -4.11; p$-value$= 0.000019$).
We concluded that the majority of Syrian workers are not aware of their obligation to hold a work permit under Lebanese Labor Law.

Hypothesis 4 was that the percentage of Syrian workers who believe that they are not subject to the National Social Security permit is more than 50%.

![Pie chart showing the percentage of Syrian workers' knowledge of their subject status to the National Social Security](image)

**Figure 11: Syrians' Knowledge of Being Subject to the National Social Security**

We performed an upper tailed z-test.

The sample data provided a significant evidence to support hypothesis 4 ( \( z = 4.47; \) p-value= 0.0000039)
We concluded that he majority of Syrian workers are not aware of their subject to the National Social Security.
Countries have different policies in controlling the entrance of foreigners, where several strategies have been followed such as the Work Permit and Priority Based systems. In this chapter, we will shed light on the different approaches that countries have followed regarding foreigners. We will also evaluate the possibility of applying such policies in Lebanon, taking into consideration Lebanon’s international obligations concerning employment.

6.1 Lebanon’s International Obligations Regarding Employment:

According to the International Labor Organization, Lebanon has ratified 50 conventions related to work and employment, of which 48 entered into force.

In 1977, Lebanon ratified the Convention concerning Discrimination in Employment and Occupation. Article 1 states that discrimination has several forms including race, color, religion, sex, and social origin that effects equality of opportunity. However, distinction regarding a particular job based on certain requirements is not considered discrimination.\(^{68}\)

\(^{68}\) Article 2, Convention 111 concerning Discrimination in Respect of Employment and Occupation.
Lebanon is a founding member of the Universal Declaration of Human Rights. In fact, the Lebanese Constitution of 1990 commits to respect the latter and other human rights treaties. According to article 23 of the Declaration, everyone has the right to work, and has the right to equal pay for equal work without any discrimination. 69

In addition to that, Lebanon acceded to the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Articles 6 and 7 ensure the right of everyone to pursue a work of his choice. Article 2 states that each State party should take necessary steps to ensure the full realization of the rights found in the Covenant, without discrimination of any kind. However, there are certain situations whereby each State party may limit the application of certain rights. Developing countries may determine to what extent it will guarantee the economic rights to non-nationals. In addition to that, parties may take into consideration their available resources in the application of the rights endowed in the Covenant. 70 Nonetheless, there are certain fundamental and inalienable rights that should be ensured to all individuals.

In 1977, Lebanon ratified the Convention Concerning Employment Policy, which is another International Labor Organization Convention. Article 2 stipulates that every person has freedom to choose his employment that matches his skills without any distinction or discrimination. It has been noted that the enforceability of the ICESCR has been limited due to the absence of mechanism for such enforcement, thus limiting the ability of individuals to protect their rights.

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69 Universal Declaration of Human Rights

70 International Covenant on Economic, Social and Cultural Rights
The introduction of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in 2008 granted individuals the right to take actions against state parties that violate the rights ensured in the ICESCR. ⁷¹

The UN Committee responsible for monitoring the application of ICESCR has extended the rights in the Covenant to non-nationals, including refugees, asylum seekers, and migrant workforce.

The rights of refugees are also ensured in the 1951 UN Refugee Convention and its 1967 Protocol. Chapter 3 of this Convention provides refugees the right to employment. However, Lebanon is not a signatory of this Convention, and thus is not legally obliged to provide the rights and benefits for refugees founded in the Refugee Convention.

In fact, refugees in Lebanon are treated as other migrants without any additional protection. In 2003, Lebanon reached an agreement with the Regional Bureau of the UNHCR regarding individuals who came to Lebanon as refugees but having an illegal status, to facilitate their return to their country of origin or resettlement in a third state. ⁷²

6.2 Different Approaches Regarding Foreign Employees:

Countries have followed different approaches in controlling and accepting foreign workers. Even the same country may use different criteria to accept workers based on the

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type of work they are seeking to perform. Many countries have signed bilateral agreements setting pre-entry controls to regulate the work of foreigners, while others depend on market study and analysis of labor market to set such regulations. For example, some countries sign bilateral agreements to regulate the migration of foreign workers. The aim of such agreements is to facilitate foreign employment by determining the rights and obligation of each party. Some of the common provisions in these agreements are equal treatment, non-discrimination, social security, transfer of savings, housing, quota of workers, and vocational training.73

Migrant workers can be classified into categories according to the type of the work they are seeking to conduct. These include trainees and apprentices; seasonal, contract, and project workers; professional and unskilled workers; artists, athletes, and entertainers; business visitors; managers and key personnel.

Regarding trainees, many countries signed agreements to control the trainee program. It includes individuals seeking technical skills or continuing education, without necessarily conducting future work in the host country. The criteria required, such as the level of education and training period, vary according to the type of profession. However, some of the pitfalls of this program have been the increase in cheap and unskilled labor. This is because many trainees are willing to pursue jobs they have been familiar with at lower wages, thus creating a source of competition for the skilled workforce.74

The second admission program that has been used is the points system. This system started in Canada, but has been followed later on by other counties. The host

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74 Manola Abella, p 28.
country specifies objective criteria, such as education, experience, age, and skills. After that, each criterion is assigned points, where each candidate must meet a minimum score. The benefit of this system is the level of transparency, whereby the criteria are available to the public allowing the potential applicants to evaluate their probability of being admitted. However, this method can be used to accept professional and skilled workers, but is difficult to be applied for refugees that should be accepted on a non-discriminatory basis.\(^75\)

The third type of program is the priority-based system. It requires the analysis of the national labor market, whereby foreigners are accepted based on the market needs. This approach has been followed by many countries even if not explicitly, but has been subject to criticism on the basis that it may not reflect the up to date market needs. Some countries, such as UK, have been able to avoid the shortcoming of this approach by creating specialized panels to review the market on an ongoing basis.\(^76\)

The forth approach is the work permit system. Based on this system, the employer seeking to employ foreigners must apply for work permit with the responsible authorities. The work permit approach has been first known in the UK after the First World War when the British market needed foreign workers from non-Commonwealth countries. Later on, many countries, especially those that were engaged in the World Wars, applied this system to employ foreign workers in the process of reconstruction.

Each country may set different rules regarding the work permit, but most agree that permits cannot be issued if national workers are able and willing to perform the same

\(^{75}\) Manola Abella, p 32.

\(^{76}\) Ibid., p33
work. Whereas developed countries mainly issue work permits to accept low skilled workers, some developing countries use such permits to accept both skilled and other unskilled workers.

This system has been mainly focused on temporary workers based on a contract, given the fact that permanent foreigners have the right to work without any permit. It requires the presence of a sponsor, known as Kafeel, who is responsible for the foreign employee.

However, the sponsorship system has been subject to abuse in certain countries. Some sponsors tend to sell the foreign recruitment certificates to recruitment agents, whereby the latter then pass the charges to the foreign workers. As a result, many countries following the work permit system have suffered from surplus of unskilled labor and decline in incomes.  

The fifth system for accepting foreign workers is the Labor Market Test. This approach is based on the idea that no foreign worker is accepted if domestic workers are available to perform the job. It is the duty of employers to prove the lack of national labor to satisfy the required work. Some countries have imposed additional requirements on employers seeking to employ foreigners. For example, employers should first advertise the job opportunity in newspapers, and then wait for a specific period seeking to find suitable local workers. Other requirements are the referral of the job opportunity to the public employment offices in the country to check for the availability of national labors that satisfy the criteria.

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{Manola Abella, p 34.}
This has been criticized for being ineffective and inappropriate in today’s labor market. Proving the unavailability of the local workers may require a certain time raising the possibility of missing opportunities by the time the foreign worker is accepted.

In an attempt to overcome this criticism, the United States adopted an approach known as “attestation method”. This means that employers are responsible for their declarations regarding the employment of foreigners, without imposing unnecessary pre-entry barriers and delays.  

Several countries have followed a sixth system known as Quota system. Different quotas may be set according to industries, which is usually done with the assistance of specialists; yet, other criteria may be used such as sector, enterprise, and skill-based quotas. The advantages of this approach are the quotas being set for a certain period, which avoids the delays and bureaucracy associated with individual request approaches. However, one pitfall of this program is that the number of foreign workers accepted may not satisfy the market need due to the underestimation of the needed number. 

Some countries have also followed certain programs for special categories of migrants. For example, youth programs have been targeted towards young migrant individuals for temporary duration. Other programs have been addressed towards working holiday people. This approach started in UK but later extended to other countries.

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78 Manola Abella, p 35.
79 Ibid., p36.
6.3 Lebanese Possible Approaches Concerning Syrian Refugees:

Several approaches that are mentioned above have proved their effectiveness, but cannot be implemented in Lebanon. The points’ system requires effective governmental bodies using advanced mechanisms which is not the case in Lebanon. Similarly, the market test approach requires ongoing market analysis which Lebanon lacks. In fact, Lebanon has been suffering from bureaucracy and corruption in its administration. This makes it difficult, if not impossible, to implement complicated approaches that are followed in some developed counties.

Lebanon can benefit from the successful approaches that other countries have followed concerning foreign employment. The Turkish government followed a successful strategy in dealing with the issue through the separation between two categories; the first are Syrians coming as refugees; the second, are those that are seeking work in Turkey. By doing so, the first group has been provided support and assistance, while the second were treated as investors which created additional job opportunities.\footnote{Lara Ayoub, “Lebanese Municipalities: Regulating Refugee Presence is ‘Our Jurisdiction’”, The Legal Agenda, May 29, 2017.}

However, what is different is that Lebanon is facing a situation of high number of Syrian and Palestinian refugees compared to the number of its nationals. This requires issuing regulations to differentiate between refugees that left their home country due to war and persecution, and those that came to Lebanon as employment seekers or investors. The first group will be treated as refugees and thus benefit from the rights associated with the status of a refugee. However, the second group should be treated as foreign
employees or foreign investors, and thus fall under the laws and regulations of this category and not refugees. This means that the latter group will be subject to limitation’s regarding the type of work they can perform, employment requirement, taxes, and other policies concerned with foreigners. Taxes imposed on Syrian investors will create additional funding for the Lebanese economy. In addition to that, forcing Syrian employers to abide by the Lebanese regulations concerned with foreign employment will insure additional job vacancies for the Lebanese through the employment of a certain number of Lebanese for each foreigner employed in a specific company.

There is no reason for distinguishing Syrians from other foreign employees or investors when they have one common reason which is working in Lebanon.
Chapter Seven
Conclusion

Everyone has the right to work, which cannot be denied through any means. This is clearly stipulated in the national laws as well as the international conventions that Lebanon has ratified. However, limitations can be imposed to regulate the labor market and ensure protection for the local labor force.

Both US and Lebanese Labor laws have similar provisions regarding the employment of youth. They both insured protection for minors through different means such as minimum age and type of work that should be suitable to the minor’s health and ability.

However, the US regulations in this domain are more detailed, whereby they included more specific provisions to ensure maximum protection for the youth.

Lebanon has special situation when it comes to employment due to several reasons. This is because the Lebanese economy has been suffering from depression since the civil war, followed by political tensions until today. This has led to a decrease in the local and foreign investments, as well as the transfer of capital into Lebanon. In addition to that, it has been noticed that the level of education and expertise in Lebanon has increased significantly, while job opportunities decelerated.

Syrians coming to or that already reside in Lebanon should be divided between those that are seeking protection and those that are economic migrants. This may have
several positive effects on the Lebanese economy. On one hand, the Lebanese authorities can impose taxes on foreign investors and employers that are willing to conduct business in Lebanon. Another benefit is creating additional job opportunities for the Lebanese, by imposing conditions on foreign investors regarding employment, such as employing a minimum number of Lebanese for each foreigner employed.

The market study revealed that the majority of foreign workers are not aware of their rights and obligations under the Lebanese laws. This requires the responsible authorities to take measures to insure that foreign workers, including Syrians, got introduced to the rules and regulations in Lebanon before entering the country. This may be reached through coordination with the responsible Syrian authorities, such as distributing brochures containing an explanation of the Lebanese laws to Syrian workers before entering Lebanon. This is necessary to guarantee that Syrians willing to work in Lebanon have a minimum knowledge of the Lebanese laws before entering the country.

The problem is not the law itself, but its implementation. The law should ensure a balance between protecting the national labor force from foreign competition and the need for foreign skills that the local industry lacks. Regardless of the approach followed, the Lebanese authorities should ensure the proper implementation of the rules.

This requires cooperation and coordination between the responsible bodies to avoid conflicting tensions between them which render the laws sterile.
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Appendix One: IRB Approval

NOTICE OF IRB APPROVAL

To: Mr. Nassif Hakim
Advisor: Dr. Khodh Falik
Associate Professor
School of Business

Date: April 17, 2018
RE: IRB #: LAU.SOB.RF2.17/Apr/2018
Protocol Title: Lebanese Labor Law: Foreign Employment and Protection of National Labor

APPROVAL ISSUED: 17 April 2018
EXPIRATION DATE: 17 October 2018
REVIEW TYPE: EXPEDITED
IRB MEETING 28MAR2018

The above referenced research project has been approved by the Lebanese American University, Institutional Review Board (LAU IRB). This approval is limited to the activities described in the Approved Research Protocol and all submitted documents listed on page 2 of this letter. Enclosed with this letter are the stamped approved documents that must be used. Please make sure you secure the necessary approvals from the targeted companies.

APPROVAL CONDITIONS FOR ALL LAU APPROVED HUMAN RESEARCH PROTOCOLS

LAU RESEARCH POLICIES: All individuals engaged in the research project must adhere to the approved protocol and all applicable LAU IRB Research Policies. PARTICIPANTS must NOT be involved in any research related activity prior to IRB approval date or after the expiration date.

PROTOCOL EXPIRATION: The LAU IRB approval expiry date is listed above. The IRB Office will send an email at least 45 days prior to protocol approval expiry - Request for Continuing Review - in order to avoid any temporary hold on the initial protocol approval. It is your responsibility to apply for continuing review and receive continuing approval for the duration of the research project. Failure to send Request for Continuation before the expiry date will result in suspension of the approval of this research project on the expiration date.

MODIFICATIONS AND AMENDMENTS: All protocol modifications must be approved by the IRB prior to implementation.

NOTIFICATION OF PROJECT COMPLETION: A notification of research project closure and a summary of findings must be sent to the IRB office upon completion. Study files must be retained for a period of 3 years from the date of notification of project completion.

IN THE EVENT OF NON-COMPLIANCE WITH ABOVE CONDITIONS, THE PRINCIPAL INVESTIGATOR SHOULD MEET WITH THE IRB ADMINISTRATORS IN ORDER TO RESOLVE SUCH CONDITIONS. IRB APPROVAL CANNOT BE GRANTED UNTIL NON-COMPLIANT ISSUES HAVE BEEN RESOLVED.

If you have any questions concerning this information, please contact the IRB office by email at irb@lau.edu.lb
Appendix Two: Questionnaire

1) What is your nationality?

2) What is your gender?
   Male
   Female

3) What is your level of education?
   Primary education or less
   Lower secondary
   Upper secondary
   Tertiary education (university)

4) To what age group do you belong?
   18-24
   25-34
   35-44
   45 and older

5) When did you start working in Lebanon?
   Before 2011
   Between 2011-2015
   After 2015

6) What are the reasons for working in Lebanon (one or more)?
   Higher income
   Political stability
   Better job opportunities
   Better working conditions
   Other:____________________

7) What is the type of work you are currently performing?
   Construction
   Agriculture
   Administrative
   Hospitality
   Other:_______________
8) Please, indicate your skill level.
   Skilled
   Semiskilled
   Unskilled

9) What is your monthly income (in Lebanese pounds)?
   Less than 400,000
   400000-600,000
   600,000-800,000
   More than 800,000

10) What was the last income you were receiving before coming to Lebanon?
    Less than 400,000
    400000-600,000
    600,000-800,000
    More than 800,000

11) What additional benefits do you receive, if any?
    Bonus
    Medical benefit
    Housing
    Free food
    None
    Other

12) How long have you been in your current work?
    Less than 6 months
    6 – 12 months
    1 – 2 years
    More than 2 years

13) Are you aware of the current law on foreign employment?
    Yes
    No
14) Under Lebanese laws, are you obliged to have a prior approval from the Lebanese authorities?
   Yes
   No
   Do not know

15) Under Lebanese laws, are you obliged to hold a work permit?
   Yes
   No
   Do not know

16) Under Lebanese laws, do you have the right to be self-employed?
   Yes
   No
   Do not know

17) Under Lebanese laws, are you subject to the minimum wage?
   Yes
   No
   Do not know

18) Under Lebanese laws, what is the number of daily hours you are allowed to work?
   Less than 8 hours
   8-10 hours
   More than 10 hours

19) Under Lebanese laws, what is the number of rest days per month?
   0
   1-2
   3-4
   More than 4

20) Choose which of the following professions are you allowed to perform?
   Construction
   Agriculture
   Banking
21) Under Lebanese law, are you subject to the National Social Security Fund?
   Yes
   No
   Do not know

22) Under Lebanese law, do you have the right to benefit from the National Social Security Fund?
   Yes
   No
   Do not know

23) Under Lebanese law, do you have the right to belong to a syndicate?
   Yes
   No
   Do not know

24) To what extent are you aware of your rights under Lebanese rules and regulations?
   Fully aware
   Partially aware
   Fully unaware
   Partially unaware
   Do not know

25) To what extent are you aware of your obligations under Lebanese rules and regulations?
   Fully aware
   Partially aware
   Fully unaware
   Partially unaware
   Do not know
26) To what extent do you agree that the work you are performing cannot be performed by Lebanese workers?
   - Strongly agree
   - Partially agree
   - Strongly disagree
   - Partially disagree
   - Do not know

27) To what extent do you believe the labour regulations in Lebanon are consistent and stable?
   - Fully consistent
   - Partially consistent
   - Fully inconsistent
   - Partially inconsistent
   - Do not know

28) To what extent do you agree that the labour regulations in Lebanon are clear?
   - Strongly agree
   - Partially agree
   - Strongly disagree
   - Partially disagree
   - Do not know