

# **Legal Mechanisms to Empower the Informal Business in Jordan**

## **☉ Introduction**

The objective of this paper is to identify the available legal mechanisms to enhance the ability of the poor to license and operate business in Jordan. The paper will address all aspects of business environment in Jordan, examining by such indicators of the unlicensed business sector and the reasons that lead to the existence and expansion of this sector. Also, it will identify the shortcomings in policies, legislations and governmental measures that contribute to the expansion of the informal business sector, and the recommended legal mechanisms needed to remedy such shortcomings towards empowering the poor to license and do lawful business practices.

## **☉ Review on the current economic and judicial reform approaches in Jordan**

Jordan has begun to pursue the approach of economic reform and market liberalization since the end of the last century. The first achievement of this approach was signing a free trade agreement with the European Union in the year 1997, followed by the accession to the World Trade Organization (WTO) in April 2000. The government also signed several free trade agreements with various countries, such as the United States and Singapore in addition to Arab countries. Additionally, the government established various Qualified Industrial Zones (QIZ) in different areas in the Kingdom, and transformed Aqaba into a special economic zone where commercial, industrial and service enterprises enjoy tax and tariff exemptions.

In its economic reform approaches, the government targeted improving the standard of living of Jordanians through achieving an annual economic growth of 6-7%, and the reduction of unemployment through creating new job opportunities for Jordanians, especially in the industrial cities. It also targeted the liberalization of Jordanian market to attract investments in the various industrial, commercial and services sectors and hence enhance competition in the Jordanian market that would contain inflation and diversify products in the local market, giving the consumer by such the opportunity to buy products according to his or her purchasing power in terms of price and quality.

In achieving these targets, the government resorted to adopting a series of administrative and legislative measures in order to simplify governmental procedures to make business environment more capable of attracting investments, as it managed to reduce the number of procedures required by any investment project from 14 to 11, and reduced the time required to register a new

project by approximately nine weeks through reducing the total number of days needed from 89 to 36 days.

With respect to the judiciary, the government has launched a strategy to develop the judicial system in the year 2004. The strategy aims at making the judicial system more effective, efficient and transparent, by improving its overall performance and enhancing its role as a tool to empower the civil society and the competitive national capacity while maintaining its independence from the executive power. This strategy consists of training programs for lawyers and judges, mechanisms to reduce time required for issuing court decisions, means for simplifying legal procedures, and the setup of alternative dispute settlement resolutions, all of which would increase the ability of citizens to access the Jordanian legal system. The government is however still in the process of implementing this strategy and there are still many measures that must be taken. *The judicial system in Jordan still suffers from many shortcomings that affect the ability of citizens, especially the poor, from accessing the judicial system and the acquiring of the necessary legal protection.*

So far, progress of strategy implementation has been relatively slow, but some of its objectives were achieved, as the law amending the Code of Civil Procedure No. 16 of 2006 was issued which included some amendments to speed the disposition of cases. Also, Under law No. 12 of 2006, the Department of Mediation was introduced as an alternative means of dispute resolution.

*However, In spite of these amendments, which were undertaken to shorten the duration of litigation procedures, there are more than 3248 cases still pending before the courts for more than three years, due to different legislative and executive reasons as well as the apparent shortage in the number of court employees with many unaware of the legal procedures, especially those on secondment from other ministries.*

#### ☉ **Reasons behind unlicensed businesses in Jordan**

*Road trades "trade stalls and hawkers", heavily spreading through poor areas in the Kingdom whether in the capital or in the provinces, represent a prominent indicator on the existence of the informal business sector in Jordan.* Usually, the owners of these trades sell their products at prices lower than those offered by the licensed traders, causing by such injury to their business and may even cause the their abandonment from the market. Surprisingly, most of these types of trade are usually located near stores belonging to licensed competitors, whom have long complained for such unfair trade practices, and the concerned

authorities are still unable to control this growing phenomenon due to the low fines imposed on such violators (i.e. 20 Jordanian Dinars).

Despite reform policies pursued by the government, the indicators of the unlicensed business sector are still existent in the economic environment of Jordan. Upon studying the circumstances under which the informal sector performs in Jordan, we came across different reasons that underpin the existence of such sector, and the continuous avoidance of the poor of obtaining legal status of their various businesses.

### **First: Taxes, registration fees and procedures**

*One of the main reasons pushing the poor to avoid licensing their businesses is the high taxes imposed by the government.* There are many types of taxes imposed on the various business sectors, under various names, such as income tax, sales tax and special taxes.

According to Article 16 of the Income Tax Law of 1985, income tax rate amounts to 25% on income generated from services and 15% on income generated from industrials. Furthermore, sales tax constitutes an additional burden as it reaches 16% of the value of goods or services; contributing to the increase of costs of goods and services and hence weakening the competitiveness of local traders in the local markets.

As for registration fees and procedures, license fees are considered relatively low compared to the fees charged in neighboring countries, especially corporate registration fees, taking into account that the poor citizen usually resorts to registering his/her business as a sole enterprise or a general partnership company that do not require a high capital for registration (up to 5000 Dinars), or high registration fees (50 Dinars).

As regards registration procedures, and by adopting the “one stop shop” service at the Ministry of Industry and Trade in 2001, the time required to complete the registration process for a company- (which does not require obtaining the approval of other relevant authorities for registration)- has been reduced from 4 days to 30 minutes from the time of submitting the application.

However, in examining the status of company’s registration in Jordan, it is evident that there exists a huge discrepancy between the number of companies registered in the capital and in the governorates. For example, the number of companies registered in Amman until the year 2007 amounted to 92041 thousand, while the number of companies registered in Altafilah reached 177, and 363 in Ma'an. This disparity is attributed to the lack of company registration services in the governorates of the Kingdom (except in Zarqa, Irbid and Aqaba). In addition, *the efficiency of the registration services offered in the three governorates is not up to the level of services offered in the capital*, which

implies that the registration process requires a longer time to be completed in the mentioned governorates than it requires in the capital. *As for the rest of the governorates of the Kingdom which lack registration service, the citizens go through a hard time being forced to go to either the capital or one of the governorates that provide the required registration service.* This constitutes a double burden on the citizen that might lead to the unwillingness to register the business and obtain legal capacity.

It is worth mentioning that the government provides many important business services in the capital only, such as investment promotion, industrial property, competition, protection of national products and industrial development, depriving the citizens in the governorates by such to benefit from these services, which are considered vital in educating and protecting the Jordanian traders and industrialists of their trading rights, contributing by such to the weakening of the licensed business environment in the governorates.

*As for the procedures and fees associated with the process of registering companies, it must be pointed out that these constitute an additional burden on the poor. The registration of many types of companies and businesses require obtaining approvals from various authorities such as the Ministry of Interior and Public Security Directorate, which is usually subject to the approval of the discretionary power of these bodies, giving rise by such to patronage and corruption.* Moreover, registered companies cannot commence its business until obtaining an "occupation license" from Greater Amman Municipality, the Ministry of Municipalities or Chambers of Trade at the governorates. Considering that the conditions for obtaining this license is somewhat hampering taking into account the effort required to meet these requirements. The citizen who wishes to obtain an occupation license must provide a "work permit" which may take a prolonged time to prepare, a site layout (plan) from the owner of the building and a preliminary approval from the local authorities in the governorate, and attach the necessary documents to obtain the occupation license, namely, the registration certificate from the Ministry of Industry and Trade, a certificate of affiliation with Amman Chamber of Commerce or Chamber of Industry, and rental lease from the owner of the building. These measures constitute a burden on the citizen because of the required time, as well as, an additional financial burden on the poor due to the fees required to issue the occupation license fees and other required documents which could total up to 200 Dinars.

With regard to hawkers and itinerant vendors, it is noticed that license fees are generally low, ranging between 10 and 30 Dinars annually depending on the type of business whether through a cart, road stand, umbrella or kiosk, under Article 6 of the Regulation on "Control and Monitoring of Hawkers, Stalls, Umbrellas and Kiosks within Municipality Areas of 2000 ". Yet, the low license fee and the low non-licensing fine, which amounts to 20 Dinars, may have the greatest impact on the poor citizens' unwillingness to license their businesses.

Regarding vegetable and fruit roaming sellers, the license fee imposed by the Management of the Central Vegetables and Fruits Market is regarded as relatively high reaching up to 400 Dinars, in addition to the insurance, which may reach 300 Dinars. It was also observed that this license is granted for a period of 6 months noting that the season for many vegetables and fruits in Jordan is confined to three months such as watermelon. *It was also found that the insurance payments are not returned to the vendor, which encourages vendors not to license their business to avoid high fees.*

## **Second: Governmental policies**

- Competition policy and Inflation

Price increases are considered one of the main reasons leading to stimulating unlicensed businesses that depend on smuggling and evasion of taxes and fees. The Kingdom faces a constant state of inflation due to the inability to deal with unfair trade practices in the Jordanian market, represented by monopoly and high profit margins at the expense of consumers. There is a clear absence of government policies that deal with the successive price crises during the transitional phase experienced now by the local market - a phase that followed the hasty withdrawal of the government from the market as a merchant, manufacturer, or controller and continues until the market reaches complete submission to the mechanisms of fully legitimate free competition by the private sector -, as the government believed that withdrawal from the market as such is a goal, which led to leaving the domestic market without custodianship that can secure its stability and prevent chaos, thus, giving space to expand the unlicensed businesses in the Kingdom and to sell products at the lowest prices possible.

- Subsidy and Support Policies

The absence of government support and subsidy programs created a significant impact on the existence of informal businesses in Jordan, as there are no subsidy programs for the commercial, industrial, agricultural and services sectors that can contribute to regulating the unlicensed business sector in the Kingdom by urging the acquirement of legal status that can grant it the benefits from these programs. The program for subsidizing exports is considered the only program in force in the Kingdom by which export revenues are exempted from income tax under Article 3 of the Law amending Income Tax Law of 2001.

The need to find subsidizing programs in Jordan is necessary to cope with the increasing costs of industrial and agricultural production coincides with the scarcity of natural and economic resources that may limit the ability of local products to compete both in the domestic as well as global markets. This encourages the expansion of unlicensed businesses which resort to reducing the cost of goods through tax evasion to be able to compete in local markets.

### **Third: Market monitoring**

Despite the multiplicity of market monitoring authorities in the Kingdom (Department of Market Surveillance, the General Corporation for Food and Drugs, Public Safety Committees, Health Directorates, Specifications and Standards), the only employees actually who are in charge of monitoring and controlling unlicensed hawkers and road traders are the employees of the Ministry of Municipalities and Greater Amman Municipality by virtue of the powers stated under the Ministry of Municipalities Law. According to Article 62 of Municipalities Law of 2007, stating that "**anyone who commits any violation of the provisions of this Law or any by-law issued pursuant to this Law, without assigning a specific penalty, is punishable, after convicting him, of a fine not exceeding twenty Dinars,**". Since the fine for such violations is low, it weakens the government's ability to limit the extent of informal businesses. In practice, many of these violations are removed based on the discretionary power of the mayor to cancel such violations.

### **Fourth: Litigation fees and procedures**

There are many obstacles facing the poor during the process of litigation involving their business. The most prominent amongst these problems and impediments is the high court fees which requires that the heads of courts activate their powers under Article 15 of the Court Fees Regulation of 2005, which stipulates that "**a- If a person claims he is not capable of paying the fees in any law suit, the head of the Court or the district judge is urged to investigate the situation to ascertain the claim, and if satisfied, decides to accept deferred fees prosecution.**" Many heads of the courts refrain from activating their powers to defer fees or are very strict in granting it.

The prolonged trial procedures is another problem as the legislation in force does not include rules determining the timeframe for completion of the trial proceedings, except what is stated in Labor Law, which stipulate that labor lawsuits are of urgent nature, although in reality this is not the case. Moreover, there are many problems that lead the poor to lose confidence in the judicial system such as the weakness of the notification system, the shortage of bailiffs, overcrowding of lawsuits, poor performance and the absence of ways to appeal some of the decisions of the Supreme Court of Justice.

In addition, the inability of the poor to pay for obtaining the necessary legal advice contributes to not resorting to the judiciary, which calls for establishing

free legal consulting offices at courts and at the offices of the Ministry of Justice, both in the capital and governorates.

#### **Fifth: Dispute settlement resolutions**

*The Jordanian administrative law does not provide for quasi-judicial bodies in the various governmental institutions.* This is one of the most important reasons that weakens the ability of poor citizens to protect their rights in disputes, especially when a government institution is involved as a party to the dispute, in light of the difficulties faced by the poor in litigation, either due to the prolonged periods required by courts or the high charges and fees of lawyers, needless to say that the poor has no confidence in their ability to challenge government actions, and the fact that the Supreme Court of Justice often backs the decision of governmental institutions in disputes that arise with individuals.

#### **Sixth: Legislations**

Jordanian laws and by-laws are marked by the generality of its texts. Application of procedures and measures are usually referred to the decisions and decrees, which is subject to rapid change, issued directly by the concerned ministers. Even though the enforceability of these decisions and instructions depends on its publication in the Official Gazette, in practice, many governmental institutions are not committed to do so, thus weakening the ability of citizens to be familiar with the procedures required for licensing businesses and thereby reducing the ability to access to the legal system in Jordan.

On the other hand, the mechanism of amending legislation in Jordan has many drawbacks that lead to the overall weakening of the capacity of poor citizens to follow changes in the legislation and therefore access the legal system in Jordan. This is evident in the government approach in limiting the amendments to the articles to be amended and publishing it in the Official Gazette under the titles "Amending Law No. or Amending By-law No." causing a crisis in codifying the amended legislation and confusion in the identification of the legislation in force or which had been canceled. This always leads to much ambiguity and uncertainty for the courts, government departments, lawyers and citizens in the application of laws and the inability to identify these amendments since it is limited to only the articles to be amended. Thus, the amended law or by-law is issued containing only an article or a few articles (the articles that have been modified). Whereas the developed countries take into account when amending its laws to publish it in full as if the amendment included all the articles. By doing so, one can always refer to the latest amendment without the need to search for all the articles of the law or by-law which had been amended in a timely manner.

## **Seventh: Public awareness legislations**

*Undoubtedly, poor public awareness of the implications of legal rights and privileges for the business sector had contributed to the emergence of unlicensed business in the Kingdom.* A good example for weak awareness of export opportunities is some of the agricultural producers who tend to sell their products on the main roads between the capital and the governorates instead of selling it in local markets or exporting it. Considering that Jordanian agricultural products are internationally desirable, agricultural producers must be sensitized on the need to organize their businesses and export such products which may secure them greater profit margins in the international markets. The onus of raising awareness is not a responsibility of the government alone but must be shared with other institutions such as Chambers of Industry and Commerce and Institution of Agricultural Marketing.

Additionally, poor awareness of many laws such as Social Security, Investment, Competition and the Protection of National Production has deprived the poor from taking advantage of the rights and privileges granted by these laws. For example, the law on Protecting National Production is considered very effective in helping protect local producers from injurious practices caused by similar imported products. Jordanian industrial and agricultural producers can protect their products from the threats of similar imported products which are being increased or sold at dumped and subsidized prices in the local market. In fact, many of the local industries have been protected under this law by increasing tariffs on similar imports. However, unlicensed producers cannot benefit from this law, which may deprive them from exercising their rights in the counteracting injurious practices that harms their products, and that, again, is due to lack of awareness of these rights.

It also must be pointed that many of the provisions of modern commercial laws in the Kingdom, such as, Competition law and Protection of National Production Law, are very difficult to understand and interpret, as such laws have been drafted according to modern international legislations that is considered an output of the economic experience of many developed countries. This necessitates the need to simplify these provisions to help enlighten the poor of their rights and privileges that can be offered by such laws.

On the other hand, despite the many promotional campaigns undertaken by several governmental institutions in an attempt to acquaint the citizens of their rights and privileges under the laws, such as the Social Security Law and Investment Promotion Law, it is still clear that such campaigns did not achieve the desired objectives as a result of its failure to take into account the specificity

of the Jordanian society and the appropriate ways to deliver information to its members, as these campaigns rely mainly on media campaigns through newspapers, pamphlets, advertisement boards as well as lectures. Therefore, new methodologies must be adopted such as training of selected intellectuals representing all regions of the Kingdom so they can, in turn, educate the residents of these regions on such laws so as to ensure that they are attracted to know the rights and privileges granted by the laws.

## 🕒 **Recommendations:**

### **First: Legislation**

- Amending Income Tax and Sales Tax Law by giving preferential treatment to the poor.
- Amending Occupation Licensing Regulation through shortening the required procedures for issuing the license.
- Increasing the minimum wage.
- Redrafting some of commercial legislations to simplify its provisions, such as the Protection of National Production law, Competition law and Intellectual Property laws.
- Amending administrative legislations to create quasi-judicial bodies in government institutions to settle the disputes of citizens with these institutions through arbitration or mediation.

### **Second: Procedures**

- Developing a clear policy for competition in the Jordanian market including practical plans for awareness and regional studies on the distribution of markets in the Kingdom whether in the capital or the governorates, and investigating the legislative or administrative reasons that hampers the ability of traders to attract consumers in the various regions.
- Reviewing the investment policies through equitable distribution of industrial zones in the various governorates of the Kingdom and increasing the minimum wage for workers at these zones.
- Expanding the geographical coverage of the institutions concerned in investment and industrial property rights and competition and the protection of national production to achieve the needed decentralization and ensure the provision of services to citizens in the governorates in a

timely way thus shortening the financial burden and physical efforts of the poor citizen to access government business services.

- Developing and implementing programs of government support for agricultural, industrial and services sectors to enable these sectors in competing both in domestic and international markets, and encourage citizens to legalize their businesses and, as a result, benefit from these programs.
- Increasing public awareness on trade legislation in the Kingdom through the adoption of modern means of awareness and involvement of civil society institutions and chambers of commerce and industry in the responsibility of public awareness of the citizens.
- Reducing licensing fees for roaming vegetable and fruit vendors by the Department of the Central Market for Vegetables and Fruits.

### **Third: Judicial System**

- Create free legal counseling offices for the poor in the Ministry of Justice and the courts.
- Accelerate the disposition of cases in courts.
- Disseminate legal education in schools and universities.

## List of Interviews

- **Mr. Bashar Al-Amad:** Director of the Investment Department – Capital Bank  
**Date of meeting:** 28/6/2007  
**Summary of the meeting:** Mr. Al-Amad stated that the main reasons for the presence of unlicensed business is the high rates of income tax and sales tax, and that tax evasion makes trading in services and goods more competitive. He also stated that under the Social Security Law, the employer who employs more than five workers is bound to join the Social Security Foundation and thus bear financial burdens reaching up to 10% of the wages. He added that poor citizens prefer work without registration in the social security than not finding a job, thus they do not seek to gain the benefits of registration.
- **Judge Ali Al-Masri:** Ministry of Justice  
**Date of meeting:** 28/6/2007  
**Summary of the meeting:** Mr. Al-Masri stated that court fees are considered relatively low in Jordan and that the poor do not pay exorbitant sums for litigation in the courts. He added that the judicial system allows the poor to pay the fees in installments in the event of the inability to pay during the registration of lawsuit. He also noted that the average time required starting with the registration of the lawsuit until arriving at a decision is approximately 342 days.
- **Mr. Ibrahim Al-Hawamdeh-** Director – Directorate of Industry and Trade- Karak  
**Date of meeting:** 2/7/2007  
**Summary of the meeting:** Mr. Hawamdeh stated that the modest fine imposed on unauthorized hawkers in Karak governorate is the main reason for the inability to reduce the unlicensed businesses as the fine is only 20 Dinars. He added that the mayor has the power to cancel this punishment without justification, and that in fact is happening in practice. He also added that the products being sold in the governorate by unlicensed sellers are smuggled from the Aqaba Economic Zone and it is mostly apparel products.
- **Mr. Naif al-Shboul:** Director of Directorate of Industry and Trade-Irbid

**Date of meeting:** 2/7/2007

**Summary of the meeting:** Mr. al-Shboul stated that the main reason for the existence of unlicensed business is the bad economic situation in the governorates as well as tax evasion and ignorance of the laws. He added that the insignificant penalty allows the unlicensed vendors to continue their businesses. He also said that not all types of companies are registered in the governorate of Irbid and that it is limited to sole owned enterprises, general partnerships and limited partnership companies.

- **Mr. Yanal Al-Barmawi:** Journalist- Al Dostour Newspaper

**Date of meeting:** 7/7/2007

**Summary of the meeting:** Mr. Barmawi said that the phenomenon of unlicensed business is a general phenomenon and it is not limited to Jordan, and it usually takes the form of flea markets, or hawkers either having their stalls on the pavement or through cars. He added that these types of unlicensed businesses spread in all the regions of the Kingdom and many of the middle and low income consumers resort to these illegal markets because of low commodity prices as there are no additional costs such as tax and other fees. During the last few years the government allocated different places for such markets so that it can control it and force sellers to pay the due taxes. He also pointed out the disadvantages of unlicensed trade, especially foodstuffs, which are not subjected to the necessary health inspection and monitoring and the extent of the negative consequences that might result such as poisoning cases that have emerged recently in the Kingdom.

- **Mr. Khalil Haji Tawfiq:** President of Foodstuff merchants Union

**Date of meeting:** 7/7/2007

**Summary of the meeting:** Mr. Tawfiq attributed the presence of unlicensed business to the high taxes in addition to the long and burdensome procedures for obtaining an occupation license, noting that the license fees are increasing annually. He also stressed that the opening of consumer civil markets and the military consumer markets for all Jordanians and non-Jordanians may lead to the closure of more than 14000 grocery store in Jordan as a result of resorting to selling goods at very low prices and with bearing a loss sometimes. This may

cause the transition of many foodstuff merchants to the unlicensed business sector.