

**Jordan Shadow NGO Report**

**Submitted to**

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**CEDAW Alliance Coordinator: Jordanian Women's Union**

**Editor and Coordinator: Afaf Al Jabiri**

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## First: Introduction to the Jordanian Shadow Report Coalition

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This report addresses all rather than one or several articles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Women's NGOs in Jordan has seized the opportunity of the upcoming CEDAW 51 session with the state of Jordan to review the progress made so far in fulfilling Jordan's obligations under the Convention, and monitor and identify issues that the Jordanian government had failed to address sufficiently. Therefore, through the process of writing the shadow report, NGOs have identified subsequent challenges facing both women and NGOs when they work with women to realize their human rights under the Convention, which NGOs has used as a influential tool to develop means to prevent violation of women's human rights, and criminalize offenders, including State, or individuals within the jurisdiction of the state of Jordan.

Despite Jordan's ratification of the Convention and NGOs' efforts to combat all forms of discrimination against women, the implementation of the Convention undoubtedly continues to pose a constant challenge to NGOs in Jordan. Despite the ongoing endeavours to advance the principles of equality and non-discrimination, violation of women's rights is still common within families, society and the state. National policies, laws and social practices still do not recognize women's rights based on the principles that CEDAW was created for, namely substantive equality, non-discrimination, and social justice.

Revolutions against corruption and tyranny in the region have led some Arab governments to adopt reforms, make constitutional amendments, as Jordan did, or draft new constitutions. Movements in the Arab World primarily called for a civil state, respect for all citizens' rights, the need to maintain statehood, and incorporation of these rights in the constitution, which serves as a contract between citizens and the State. Hence Constitutional amendments are key to reinforcing the values for which revolutions and popular movements have broken out. Women regard constitutional amendments as the pathway to a state that safeguards the rights of female and male citizens without discrimination.

Jordan has witnessed widespread demonstrations demanding mainly constitutional amendments. Consequently, a royal committee for amending the constitution was established for a three-month period. However, that committee did not include any female members, not even in terms of form. Many civil and women's alliances were formed to envision and submit proposed constitutional amendments for the committee's consideration. However, to the dismay of those alliances, the demanded amendments were overlooked in the final draft. The most notable demand was amendment to article 6, which does not mention the word "gender" or any other word that would ensure "equality of men and women" and help identify and amend discriminatory provisions in the various laws to make them in line with the constitution.

The Civil Alliance had sent a memorandum calling for constitutional amendments to:

- expressly provide that international treaties take precedence over national laws;
- Ratify protocols to human rights treaties, especially the CEDAW optional protocol;
- Expressly include the word “sex” in the definition of discrimination, prohibit discrimination and take all necessary measures to eliminate it;
- Constitutionalize equality and recognize full capacity and citizenship of women;
- Expressly prohibit the withdrawal of the Jordanian nationality and preventing Jordanians from returning to their country;
- Grant the ability to appeal to the constitutional court -currently under development- and challenge the constitutionality of laws not only to the Government, but also to civil society and its organizations;

The constitutional amendments were forwarded to the Parliament and passed but did not take into consideration the civil society’s demands despite the protests, memoranda, and rallies. NGOs request the CEDAW Committee to adopt these demands and lobby the government to adopt them and make constitutional amendments accordingly.

### **Jordanian Shadow Report Coalition**

Led by the Jordanian Women’s Union and comprising of various human rights and women’s organizations, The CEDAW coalition was formed in 2010 to coordinate work on the report. Before drafting the report, the coalition undertook several activities to raise awareness of its male and female members about CEDAW, the committee’s work, and basic rules of writing the shadow report.

Work was based on the principles of substantive equality and non-discrimination and the idea that women’s rights are an integral part of human rights and the violation of one right will hinder access to the others. It also relied on the notion that the state bears responsibility for the various violations. Based on the firm belief in such principles that form the mainstays of CEDAW-related work, several reviews were conducted, covering the Jordan’s fifth periodic report submitted through the National Commission for Women, various laws, relevant court cases, the 2007 and 2009 Population and Health Reports, and national strategies. In addition, several focus group meetings targeting specialists from outside the coalition were held to discuss the government report and Jordan’s obligations under CEDAW to ensure that a wider range of opinions is included from various sides and organizations.

The report’s steering committee comprised several members of the coalition and the legal committee of the Jordanian Women’s Union, which was primarily concerned with reviewing laws and providing the report’s committee with violation cases in courts. A press conference

was held to introduce the coalition, identify priorities and state the coalition demands. These demands mainly stressed the need to remove Jordan's reservations to the Convention, use a unified Civil Code to handle family matters, precisely criminalize violence against women in Jordanian laws, provide a definition of violence against women in the public and private domains, amend the constitution to prohibit discrimination against women on the basis of sex and determine where the Convention stands in the Jordanian Law. The coalition sent priority issues to the CEDAW Committee's pre session on comments on the Government Report.

### **Government Achievements since 2007**

- Issue the Law amending the Labour Law of 2008, which provides that sexual harassment is punishable under article 29, and increases under article 77 the penalty for violating Articles in the section on women's and children's rights
- Ratify the Protocol to criminalize all Forms of Trafficking in Women and Children and the Protocol on Labour.
- Issue the Domestic Violence Law
- Increase women's quota in the Parliament from 6 to 12 seats,

### **Second: Concluding Remarks on the third and fourth Jordan Reports to the CEDAW Committee – July 2007**

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The CEDAW Committee had a number of concluding comments and recommendations for Jordan's combined third and fourth report that was submitted to CEDAW in 2007. This will start first by briefly overviewing the government's reaction to the concluding comments, and NGOs' opinion on whether the government has acted on these recommendations in a manner that ensures fulfilment of Jordan's obligations under CEDAW. Remarks on the following concluding comments are the essence and the executive summary of the Jordanian Shadow Report to CEDAW:

- 1. Raising awareness of ministries and the government staff about Jordan's obligations:** the CEDAW Committee reiterated the importance of raising awareness about the Convention among government staff. According to the official Report, several trainings were held through the Jordanian National Commission for Women, but organizations involved in drafting the report noticed through its work with various public departments that government's employees are generally unaware of the Convention and the rights and obligations stipulated in it. They also do not know and the roles and responsibilities of public departments with respect to the Convention. Participants in focus groups pointed out that some male and female government employees even oppose the Convention. For example, the Juristic Islamic Rulings Department (Al Ifta'), a public department, declared that it opposes the Convention because it contradicts Islam and Jordan must renounce being a party

to it. This indicates the government's weakness in raising awareness about the Convention and the role of various departments in implementing it.

- 2. Reservations:** In a positive step, Jordan removed its reservation to Article 15 of the Convention, but maintained its reservations to articles 9 and 16, which treat women as first-class citizens equal to men in rights and duties on the public and private levels. By maintaining its reservations to these articles, Jordan continues to regard women as inferior and discriminates against them in Jordanian legislation. Non-discrimination against women is the heart of the Convention and reservation to these articles indicates Jordan's lack of compliance with this principle contradicts article 1, violates the article on rejecting any reservation to the Vienna Convention if it contradicts the spirit and the letter of the Convention. Therefore, the CEDAW Committee must determine whether the reservation is acceptable and reconsider Jordan's reservations to the Convention.
- 3. Publication in the Official Gazette:** Jordan published the Convention in 2007 shortly before attending the discussion of the third and fourth government reports in New York. However, this step was not made towards reviewing discriminatory Jordanian legislation based on CEDAW. Also, the status of CEDAW in Jordanian legislation is not clear since the Jordanian Constitution does not expressly state that international treaties supersede local laws and may be used in courts. Therefore, there were several programs implemented by NGOs aiming to have an article incorporated in the Constitution that expressly designates the status of international treaties clearly in the Jordanian legislative system.
- 4. Equality Law:** Until now, there is no law that prohibits discrimination against women in all fields and identifies equality as a key principle in addressing women's issues and various women's rights. For example, the national official report provides for "creating equal opportunities". Although this principle is enshrined in the Constitution and the laws and procedures of many public departments, it does not specifically call for gender equality. As a result, this principle is applied without consideration of policies related to women and their equality to men in job opportunities, promotion and training. The principle of equality should be the platform from which various women-related policies should emanate. Replacing "equality" with "equal opportunities", which is only one of the means to realize gender equality, is not sufficient. Substantive equality, as stipulated in the Convention, must be adopted to make jobs available and accessible to women and create appropriate mechanisms to ensure women's sustainability and advancement in various fields.

- 5. Authority of the National Commission:** The National Commission's role is still not clearly defined as a body specialized in monitoring the government's fulfilment of its obligations under international women's treaties, developing draft laws to amend existing discriminatory laws, and working with different ministries and public entities to implement the National Strategy for Women. Furthermore, its role in supporting NGOs' campaigns and programs that seek to change the current values and laws that legitimize violence and discrimination against women is also not clear. This could be attributed to the commission's limited authority and financial resources, which prevent it from performing its duties and make it often compete with NGOs for grants and implement activities in a way that does not distinguish the role of the Commission's from the role of NGOs. Therefore, enabling the Commission, through amending the law of establishing it, to monitor and improve government performance with regard to policies related to women will make the efforts of the commission and NGOs better aligned, thereby advancing the status of women in Jordan.
- 6. Discriminatory Laws:** Article 6 of the Jordanian Constitution stipulates that "Jordanians shall be equal before the law" and that there shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion. However, the fact that it does not provide for equality of men and women and does not prohibit discrimination on the basis of sex indicates that discrimination against women exists in the legal system. Based on its obligations under the Convention, the State must develop a law that criminalizes gender-based discrimination and identifies mechanisms for monitoring discrimination cases and punishing those responsible for discrimination. The National Committee for Amending the Constitution, which was formed in March 2010, included the term "sex" in the draft amendments of article 6 of the constitution, but not in the final amendments. The fact that the constitution does not expressly mention "equality" restricts the ability to review discriminatory and unconstitutional laws. Therefore, recognition and adoption of the principle of equality is a requirement of high priority, as it would lead to a comprehensive review of all discriminatory laws and practices against women.
- 7.** While some positive amendments have been made to the temporary Personal Status Law No.36 of 2010, women's issues are still handled with a protective approach, which identifies women's rights from the perspectives of curatorship (wisayah), and guardianship (wilaya), further reinforcing discrimination and violence against women. Therefore, the coalition has demanded that women's cases be handled through recognition of women's legal standing and capacity. That could only be achieved through a civil code that treats women as equal to men, especially when all

other laws that govern public transactions are civil laws, not *Sharia* nor Christian law as is the case with the Personal Status Law.

**8. Domestic Violence Law / Law on Criminalization of Violence:** Based on the CEDAW Committee's recommendation No.22 of 2007, the Domestic Violence Law was issued, representing a positive and important step. However, the law does not provide a definition of domestic violence or violence against women, nor does it expressly criminalize them. Instead, it makes reference to the Penal Code. Accordingly, the Domestic Violence Law could not be used to the advantage of female victims of violence, especially because it did not provide procedures that judges can rely on. Therefore, the coalition demands a special law on violence against women be developed based on the definition provided in the Declaration on the Elimination of Violence against Women and recommendation No.19 of CEDAW, so that deciding whether an act is considered violent is not left to the discretion of the judge.

**9. Articles 340 and 98 of the Penal Code:** The 2011 Amendments to the Penal Code included articles 66, 63, and 55. Article 55 provides for adding article 308 *bis*, which is on benefiting from the mitigating factors mentioned in article 99 of the original amended law. The article provides that "mitigating factors are irrelevant if the victim was under 18 years old and the perpetrator was 18 or over". On the other hand, article 63, according to the order of articles in the Official Gazette, cancels article 340 of the original amended law but applies mitigating factors to cases in which a man unexpectedly catches his wife or a female kin committing adultery, and a woman catches her husband committing adultery in the marital home. Amendments overlooked demands to cancel article 340 of the Penal Code to prevent judges from making different interpretations in this area.

In addition, article 66 amends the original 345 article and considers mitigating factors irrelevant if the male or female victim was under 15 years old. The temporary law issued by the Council of Ministers before amended by the parliament stipulated that "if the male victim was under 15...and the female victim regardless of her age", NGOs advocated to keep article 66 as suggested by the Council of Ministries as it did not provide mitigation factors for perpetrators if women are above 15.

**10. Family Reconciliation House (shelter):** The Family Reconciliation House still receives female victims of violence through the Family Protection Department, limiting women's ability to go directly to the shelter if they were at risk and did not want to go to the police station. Also, NGOs, who played a major role in establishing the shelter after more than 10 years of demanding, still cannot benefit from the shelter's services due to its bureaucratic admission procedures. The shelter still cannot

receive women who are at risk or who are victims of sexual violence. NGOs have identified several female victims of violence who are still at Juwaideh Correctional Facility due to the shelter policy of refusing to intervene in the issues of women at risk. Therefore, the shelter has not provided shelter to the women for whom it had been established for. Based on official figures, more than 40 court-detained women and 13 administratively detained women at Juwaideh correctional facility for protection purposes.

**11. Political Participation/ Quota:** Women's political participation is still low, and has not reached a desired level yet. According to the 2010 Civil Service Bureau Report, women represent 46% of the workforce in the public sector. However only 10%<sup>1</sup> are in leadership positions and 17% are in mid-level administrative positions. Although more seats were designated for women's quota in the Parliament under the temporary Elections Law No.9 of 2010, the method of calculating the quota limits women's access to the parliament from cities and major constituencies. In addition, the law requires a comprehensive review to ensure that it guarantees the principle of equality and cancels the one vote system, which affects the composition of the parliament, strengthens the role of tribes and denies competent individuals the opportunity to access to the Parliament on free and competitive basis.

**12. Labour Law / Sexual Abuse and Discrimination:** The most notable amendment to the Labour Law is expressly addressing sexual harassment in the workplace. Article 29/6 of the amended Labour Law of 2008 provides that a male or female employee who experiences abuse in the workplace may leave work and demand compensation for arbitrary dismissal, which would be equivalent to a three to six month pay plus a one-month notice allowance. However, the law provides that employees are entitled to this right only if the abuse was committed by the employer or a representative of the employer. It did not address cases in which these acts were committed by another employee, and did not identify a specific mechanism to punish the offender, enabling him/ her to evade punishment, unless the victim files a complaint under the Penal Code.

**13. Domestic Workers:** in the past, domestic and agricultural workers were excluded from the Labour Law, but the scope of legal protection offered to them has expanded that they are now governed by it. Accordingly, the Labour Law's provisions on sexual harassment in the workplace apply now to domestic workers who are often victims of violence and sexual harassment. On the other hand, the Domestic Violence Law does not address violence against domestic workers because it is

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<sup>1</sup> Civil Service Bureau Annual Report, 2010

specifically concerned with members of the same family living in the same household.

**14. NGOs Law:** The Law on Charitable Organizations No. (51) of ( 2008) imposes several procedures to restrict NGOs' scope of work and activities, and limit their chances of obtaining funding by requiring the Prime Ministry's approval to awarded projects. The law also limits the presence of NGOs by barring them from establishing independent (in terms of administration and finance) branch offices, greatly affecting work with women in governorates and villages and centralizing it in cities, especially in Amman. This law represents a retreat from the principles of democracy. Therefore, NGOs demand that the law be reviewed in a true consultative process with NGOs.

**15. Optional Protocol:** Jordan has not yet ratified the Optional Protocol to CEDAW, thereby denying women and NGOs the ability to file individual complaints to the CEDAW Committee on violations against women that did not receive a just treatment from Jordanian courts. Ratification of the Optional Protocol will greatly impact the legislative system in Jordan and identify the Convention as a legal reference for Judges in deciding cases. Therefore, NGOs believe that the country must ratify the Optional Protocol to reaffirm its desire to comply with the Convention and fulfil its obligation to implement the Convention by allowing cases on violations of women's human rights to be heard using the new CEDAW Committee complaints mechanism.

### Third: Articles 1-5, and general recommendations to the CEDAW on these articles

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#### Article 1: Definition of direct and deliberate, or indirect and unintentional Discrimination

This article highlights the connection between discrimination against women and society's perception of women as being subordinate to men. In this context, the Convention requests that its definition of discrimination be adopted when reviewing policies and laws that provide the framework of unequal relationships between men and women. The official report to the CEDAW Committee mentions that the Constitution covers the principle of equality<sup>2</sup>, but NGOs believe that this does not reflect an honest analysis of the equality in the Constitution. The constitution, first, addresses the male citizens, not females by using a masculine language. Moreover, amendment of article 6, which was expected in the recent constitutional amendments, was justified under "religious and political" factors as argued by some government officials. Considering the religious factor, using religion to justify the government's lack of determination to fulfil its responsibility of implementing the Convention is a serious matter because the government thereby subjects women's rights in according to erroneous religious interpretations in order to comply with the wishes of hard-line conservatives and members of stern religious streams. From a political perspective, several statements argued that the principle of equality in the constitution would lead to amending the Nationality Law and granting women the right to pass their nationality on to their husbands and children, causing the resettlement of many more Palestinians in Jordan and threatening the Palestinian identity. The question being raised here to the Jordanian Government is: why would a man's receipt of the Jordanian nationality from marriage to a Jordanian woman threaten the Palestinian identity, whereas a Palestinian woman's receipt of the Jordanian nationality from marrying a Jordanian Man would not? This issue exemplifies women's subordination to men, as mentioned in article 1 of CEDAW.

The government report states that the constitution encompasses the principle of equality in employment, opportunities, education and health<sup>3</sup>. However, the Constitution mentions women only in the article on employment "special conditions shall be made for the employment of women and juveniles"<sup>4</sup>, which regards women as equal to children with respect to special employment conditions. This shows that the treatment of women in laws is based on a protective approach. For example, the Labour Law identifies many occupations that women could not assume, such as those which require night shift work (except for medical nurses, and recently women were allowed to work in hotels and night clubs) or work in quarries. Such laws are based on the idea that women are unable to perform these jobs, but did not establish procedures to

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<sup>2</sup> Fifth Government Report, 2009, National Council for Family Affairs, P.3.

<sup>3</sup> Ibid.

<sup>4</sup> Article 28 of the Jordanian Constitution

provide opportunities for women by creating an environment that would help women enter fields considered exclusive for men.

The official report also points out that the National Agenda 2006 -2015 “Jordan All” (Kulluna Al Urdun) incorporates the principle of equality, and that the National Strategy of 2005-2010 (extended to 2011) also covers this principle. It is true that the National Agenda addresses equality and non-discrimination against male and female citizens, but it does not provide procedures to combat discrimination, nor does it provide a definition of discrimination and equality. The National Strategy also does not provide a definition of discrimination, nor does it establish clear procedures to prevent it. It only identifies the key work areas without mentioning work obstacles and limitations. The Strategy also does not provide a vision of how to combat subordination of women within families, society and state, thereby failing to acknowledge the traditional patriarchal mindset that opposes women’s freedom and equality to men. As a result, the Strategy’s ability to provide a clear vision of how to address women’s issues was undermined, making it an activity-focused Strategy rather than a strategy that articulates clearly defined policies and principles.

Having an equality law that provides a clear definition of discrimination would speed up the process of amending and cancelling discriminatory laws, determine clear mechanisms for formulating legislation in all fields, make violations of women’s rights punishable, and develop mechanisms for monitoring discriminatory practices and violations committed by the state or institutions acting on its behalf. It is also necessary to have procedures in place for the law to be implemented by the state or any other entity without confusion.

#### **Recommendations:**

- **Issue the Equality Law, which criminalizes all forms of discrimination;**
- **Amend article 6 of the constitution to prohibit discrimination on the basis of sex.**

#### **Articles 2-4: States’ obligation to adopt legal and policy measures, including temporary measures or any other form of temporary measures, to eliminate discrimination,**

Temporary measures are still ineffective in eliminating discrimination, ensuring women’s access to advanced positions in politics and economy and guaranteeing gradual progress while maintaining gender balance. The Government Report indicated that a number of procedures had been adopted in this regard such as providing for equality and non-discrimination on the basis of sex in the Labour Law and the Civil Service Law. However, while the Labour Law identifies workers as “male or female workers”, it does not mention in any article discrimination on the basis of sex, does not specify punishments for gender-

based violations against women, nor does it indicate procedures to protect women from job termination or unemployment for reasons related to their sex.

On the other hand, of the Civil Service Ordinance mentions “equal opportunities” rather than “equality” in article 4, but it does not identify procedures to ensure equal opportunities in employment, promotion, training, and assignments abroad. Article 25 indicates clear discrimination because it stipulates that family allowance is given only to male employees, and may be given to a female employee if she was a widow or married to a “physically disabled” person (Article 25/b). Accordingly, the Ordinance reaffirms that men bear the financial responsibility within families and that women’s economic participation is recognized only in men’s absence or incapacity to work. This is part of the stereotyped roles of men and women in the Jordanian society and must be addressed by the state. In addition, there is a gap in the Civil Service Ordinance with respect to retirement. The Ordinance provides that a woman shall retire after 20 years of service, whereas men shall retire after 25 years of service. This gap leads women to leave their jobs early and not reach leadership positions in the public sector.

Increasing the number of women in the Parliament by increasing their quota from 5% to 11% is a positive, but insufficient, step. Female representation in Jordan’s Parliament is still among the lowest in the world even compared to some other Arab states. Women’s quota in the Parliament reached 25% in Iraq, 26% in Sudan, and 13% in Egypt. Jordan has not adjusted the method of calculating the quota which currently enables only women in small constituencies to access the parliament but denies women in large constituencies the chance to succeed.

Moreover, no quota, policies or procedures govern the appointment of women in leadership positions. While the number of female ministers in one government in 2009 reached four, it went down to one or two female ministers in later governments. For example, the government that was formed in November of 2011 had only two female ministers in it, which indicates a lack of a consistent approach regarding the female representation in senior leadership positions.

With regard to procedures to protect women against violence and the **Committee recommendation No.21-22** on issuing the Protection against Violence Law, the Domestic Violence Law was issued. This law is analyzed thoroughly in case study No.1. Women at risk of being subjected to violence by their families are treated like criminals in the Juwaidah Correctional Facility. According to the facility’s statistics, there are 40 court-detained Jordanian women in the facility and 13 administratively detained women for life protection reasons. NGOs have made continuous efforts to release the administratively detained women from the facility and allow them to benefit from the services of the Family Reconciliation House. However, the government shelter’s rules do not permit dealing with such cases. NGOs have dealt with a large number of detained women and provided them with rehabilitation and training on work skills and inclusion in the society.

However, the correctional center did not allow some detainees to be bailed out by NGOs. The Jordanian Women's Union has accounts of women detained for over seven years waiting to be bailed by a family member, but the Government kept them in detention and did nothing to protect them or provide a residence and work for them

### **Case Study No.1**

#### **Review of the Domestic Violence Law**

The law's scope of application is narrow in view of the definition it provides for the "family home" and "family members". According to the Law, a "family home" is the home where members of a family live together, whereas "family members" are those who reside in the family home. These restricted definitions render the law not applicable to many cases of violence. Therefore, the definition of family members should have been "persons are related by blood" since not all members of a single family may be residing in the same house. The definition also excluded other persons residing in the house, such as domestic workers, who are not governed by this law in cases of violence committed against them.

The Law does not provide a definition of "domestic violence" nor "violence against women". It relies on the Penal Code and judges' discretion to determine what constitutes violence. This contradicts recommendation No.19, which requires governments to provide a definition of violence in accordance with the recommendation and the Declaration on the Elimination of Violence against Women.

Article 7 provides that cases should be referred first to the family reconciliation committees before any protective measures are taken, which leaves female victims of violence without protection. The law does not state any procedures for investigation and prosecution. It does not identify the duties of Public Security, and Public Prosecution, nor does it describe investigation and trial procedures that should be swift. In addition, the law does not ban reconciliation although the purpose of family reconciliation committees is providing protection, not reconciliation and that domestic violence cases are not family disputes that need to be reconciled and settled.

Article 8/a provides that certain persons are required to report violence cases, but does not expressly or by reference to relevant regulations indicate penalties for violation of this requirement. Article 9/a provides the cases in which the legal police is required to go to the location of the violence incident, provided that it is an ongoing or imminent domestic violence incident. On the other hand, the law does address violence incidents that had already occurred or occurred in the past. This means that the article only applies to cases of "flagrante delicto" or "attempted" violence. Article

9/b also provides that the legal police shall go to the location of the incident if a violation of a protection order is reported, but does not address attempted violation of a protection order.

Article 12 contains a clear violation of the constitution. It provides that the Family Protection Department is entitled to discontinue the criminal prosecution of the person who commit the act of violence if a settlement of the dispute is reached through Family Reconciliation Committees. The Department may not stop prosecution unless upon a decision of the public prosecutor because public right cases may not be handled by the judiciary nor the attorney general's office. Therefore, a public prosecutor must be stationed at the Family Protection Department to handle the complaint legally, undertake investigations receiving the news, listen to witnesses, write down statements, and question the victim of violence.

Ninth: With regard to precautionary protection measures, article 11 provides that "the director of the Family Protection Department **may**....." , although such measures must be required rather than permissible for the purpose of protecting female victims of violence.

**Article 14/b** provides that a protection order may be renewed by court for six months if it is violated, which may deny the violence victim full protection. A penalty should have been imposed for the violation rather than just extend the protection order. There is a clear contradiction between articles 15/b and 14/b. Article 15/b provides that the court may detain the defendant for a maximum of one week if s/he fails to abide by the precautionary protection order or the protection order, whereas article 14/b allows the protection order to be extended for six months.

Article 15/b provides that "if the person does not adhere to.....the protection order willfully", which means that the victim of violence must prove willfulness to obtain a court decision to detain the defendant for the one week period. The law does not provide that the person who commits violence (the person responsible of providing for the family embers) is required to provide financial support to the family members while he is sent away by precautionary protection measures or a protection order without the need for the mother to file a lawsuit before Sharia courts for that purpose. This is also applicable to the house rent. Therefore, all penalties in the law do not sufficiently deter offenders nor protect victims of violence.

Moreover, the law does not provide that there should be a court specialized in various domestic violence cases and composed of trained and qualified judges in this field. Therefore, it does not serve the interests of women, and violates Jordan's obligations under the Convention and the provisions of recommendation No.19.

The law was issued in March 2008, but has been almost inactive so far because the regulations that stipulate its implementation process have not been issued yet.

### **Recommendations:**

- **Stipulate specific procedures for handling women’s issues without discrimination and punish whoever violates the procedures.**
- **Amend the Domestic Violence Law to specify clearly the definition of “violence against women”, the provisions of recommendation no.19, procedures for implementing the law, and train judges and the police on how to implement the law.**

### ***Article 5: The Negative effect of social and cultural practices and customs which are based on the idea of inferiority or superiority of either of the sexes or on stereotyped roles of men and women***

The Government Report listed a number of procedures that would change the stereotypes of women. These included incorporating human rights concepts in curricula, establishing a women’s studies center and concluding a memorandum of understating with some media representatives to change the stereotypes of women. The report, however, does not mention any of the government program’s policies to change perceptions of the roles of men and women. It also does not specify the means to ensure systematic sustainability of such program so that they are not only activities implemented through the National Commission without the true efforts of other public institutions.

Some of the participating organizations in the shadow report focus groups noticed that human rights concepts have been incorporated into school curricula, but teachers were not given training on these concepts, leading some teachers to consider them unessential and for students’ personal reading only. Therefore, extensive training should be provided to the teachers in the Ministry of Education on human rights concepts, and especially on changing women’s stereotypes in society. Curricula need to undergo a comprehensive review because they still directly and indirectly contains concepts and representations of the traditional role and image of women in society which encourages discrimination against women. For example, the 8<sup>th</sup> grade civic education textbook considers women’s employment a major challenge facing society and one of the causes of disintegration of the family.

Changing the stereotype of women as second-class citizens, who are confined to specific tasks, such as providing care and doing household chores requires work on several levels. This should be coupled with laws and policies that remove protection measures imposed on women, such as guardianship laws or laws that ban women from undertaking certain jobs

because they lack the necessary physical strength. Such laws are otherwise known as laws protecting women against danger, which translates as denying women access to many positions or the ability to carry on with their lives without the need to obtain their guardian's approval.

The government report indicates that the government implements a limited number of activities that do not target social misconceptions about women and aim to make comprehensive amendments to discriminatory laws that are based on social, political and economic stereotyped roles of women in society. The government has not adopted systematic programs for the society to raise awareness of women's rights. Amending laws or changing social perceptions requires a qualified and mindful team of women's rights under CEDAW. The report has not addressed that issue nor has the government truly invested in persons to develop a staff fully aware of CEDAW and training tools to communicate with society and change the negative stereotypes of women.

### **Recommendations**

- **Develop systemic programs to change the stereotype of women and women's roles and supplement that with laws that criminalize gender-based discrimination.**
- **Eliminate all forms of discrimination in the Ministry of Education curricula, train the educational staff and raise awareness of women's rights.**

### **Fourth: Articles 7-16**

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**Article 7: Public and Political life: States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:**

**7/A To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;**

Jordanian women have the right to run for elections and vote in all fields. There are no discriminatory clauses in Elections laws. A 5% quota was allocated for women in the Parliament, but according to the 2010 Elections Law the quota was raised to 10.8%, which equals 12 out of 110 seats in the Parliament. This increase is a good indicator of the government's commitment to implement the CEDAW Committee recommendations. However, the increase in the number of seats in seven years is not proportional to the targeted accumulative increase to 30% according to the Millennium goals which the government is committed to achieve by 2012.

Moreover, the government insists on selecting winners in quota based on calculating the percentage of votes a female candidate gets in her constituency and measuring that

against the number of voters in the same constituency and then taking the highest 12 candidates at the Kingdom's level. The mechanism denies women in large constituencies the opportunity to access the Parliament. Results of previous elections confirm that this method is not fair because none of the female candidates from large constituencies can reach the Parliament through the quota (except for one woman from the first constituency in Amman in the 2010 elections). Out of 853 candidates, only 142 were women. It is perhaps clear that the number of female candidates dropped in the 2010 elections due to the frustration women felt from the previous elections.

The accumulative increase in the size of the quota will help change the roles and stereotypes of women and realize full equality. Therefore, a quota must be viewed as a temporary step towards equality. The increase in female representation through quota must be based on a clear strategy that defines the amount of increase in each election and must be coupled with a permanent, as opposed to a provisional action program.

As mentioned in its report, the National Commission worked with parliamentary female candidates to implement activities to raise awareness of the role of women in political life. However, these activities were simultaneously carried out with the preparations for the elections and were not systematic and sustainable. Women's organizations still cannot directly support candidates or invite them to their facilities to introduce their programs because the Law on Societies bars organizations from intervening in electoral and political affairs. This limited the ability of organizations to conduct campaigns and support candidates, making their efforts indirect and unorganized.

**7/b To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;**

The Government Report highlighted a noticeable increase in the number of women in leadership positions in 2009, reaching 16.6%. This is close to the international percentage of female representation in decision-making positions. However, the Civil Service report of 2010 showed (as per table 1) a drop down to 10% in 2010, which indicates that the appointment of women in leadership positions is not based on fixed and clearly-defined criteria. The percentage of women, especially those in positions equivalent to a minister, is only 6% (two female ministers out of 13 ministers), which is still one of the lowest female representation rates across the world in decision-making positions.

The Government must set criteria for women in leadership positions through clear measures, as per article 7 of the Convention, to increase female representation in a fair manner based on the principle of equality. Women represent nearly half of the workforce public sector (50% according to a Civil Service Bureau Study of 2010, and 46% according to the 2010 Department of Statistics' Employment Report). However, this percentage does not reflect the true participation of women in decision-making. In addition, women are still

primarily in the health and education sectors. The percentage of women in reached 57% in the educational sector, and 50% in the health sector. The percentage of women in other sectors drops to 30% (Workforce Status Report, Civil Service Bureau, 2010), which confirms that women’s presence in the public sector is still limited within jobs determined by society for women based on their social role as care providers, which does not help to change social structure and the stereotype of women in society.

Job Title	Males	Females	Total
Minister	25	2	27
Head of Department with the rank of minister	4	-	4
Secretary General	26	2	28
Director General	44	6	50
Legislative Bureau Advisor	1	3	4
Governor	25	1	26
Total	125	14	139

Table 1: Number of Women and Men in decision-making positions, Civil Service Bureau, 2010

Moreover, the Civil Service Ordinance still discriminates against working women and distinguishes them from working men though certain clauses. For example, a family allowance is given exclusively to a male employee and given to a female employee only if she was married to man who cannot work or has a physical disability. This clause indicates that the Ordinance considers financial support to a family the responsibility of the man not the woman, which reproduces the concept of men’s superiority to women by virtue of their financial and social responsibilities and identifies the role of women in families as secondary, even if they were working and productive women.

The Civil Service Ordinance does not provide any special procedures to facilitate women’s employment in the public sector and encourage them to continue working. Examples on these procedures include daycare centers, nursing hours, or flexible working hours for breastfeeding mothers. The Jordanian Labour Law contains such procedures but does not apply them to civil service female employees, leading to weaknesses in monitoring the compliance of the private sector because the state itself does not adopt such procedures.

The government report (page 16) states that one of the National Agenda's recommendations is to "increase women's participation to a satisfactory level in official decision-making positions". It further provides that the Agenda adopts the principles of equality and equal opportunities for women in decision-making positions. However, indicating that women's participation should be at a "satisfactory level" does not clearly define the government's targeted percentage, leaving women's participation in decision-making positions contingent upon the choice of decisions makers in each stage. Previous figures show that these choices could result in reducing the number of women rather than increasing it.

### **7/c to participate in non-governmental organizations and associations concerned with the public and political life of the country**

According to the government report, laws on societies and associations make no distinction between men and women, and established procedures do not prevent women from joining any society or licensed political party. It also indicates that the work mechanisms of societies and the right to assembly hinder men and women alike as they undermine the principles of freedom and democracy. The main violations of the rights of women's organizations to organize their affairs and plan their programs is evident in the Law of Societies of 2008, which NGOs continue to demand drastic amendments to, namely with respect to registration, freedom to work, funding, judicial monitoring, settling internal disputes of associations, the fund for societies, penalties, and incentives and facilities.

Registration: Articles 4-8 clearly indicate that the government is determined to remain in full control of the registration of societies it selects. Although the law talks now only about the registration of societies, the government has actually increased its authority to determine the way in which non-governmental societies are composed. The Council of Ministers directly appoints the "controller of the registry" as per article 4, who may approve a registration application if the following conditions are met:

- The society's founding members must include a Jordanian legal person that is not a society (article 8)
- The founding member of any society must be of good conduct and does not have a criminal record (article 7/d), which requires obtaining a certificate of good conduct from the Public Intelligence Department. There is no clear criteria for the certificate and it may not be given to the applicant based on special and unjustified factors. This condition and its relevance to the registration of a society was never justified.

The law also permits the controller of the registry and the ministry to postpone registration procedures for an unspecified period due to deficiencies in the application (articles 10 b, 11 b), which is not governed by clear criteria and gives wide and unlimited authority to put off registration.

Funding: the law controls a new fund that provides government support to societies (article 22) and at the same time imposes restrictions on non-government support.

Dissolving societies: A temporary administrative body is formed to close down any society that fails to make adjustments within one month of receiving the ministry's observations on the society's lack of compliance with the law or violation of its bylaws, according to article 19. The law does not only give the government control over societies, it also allows the minister under article 20 to close down a society for failing for the second time to make adjustments after having been notified or after having received grants from a non-Jordanian entity without the minister's approval.

These are not only routine procedures; they give the government absolute control over NGOs. The government is accordingly given the ability to influence the activities and programs of NGOs because it would have prior knowledge of the NGOs' annual plans and programs for which they would obtain funds to implement. The Law on Societies imposes government control on the establishment, funding and activities of societies, making it almost impossible for any society seeking to conduct a monetary review and evaluation of the government's policies to maintain its independence.

#### **Case Study No.2**

##### **Jordanian Women's Union: Changing the structure based on the law limits the democratic identity of the Union and enhances centralization**

Established in 1945, the Union is one of the first non-governmental organizations in Jordan. It gained recognition through its women's programs that aim to realize equality and social justice. The Union has around 7000 active female members from all areas of Jordan. JWU's 1993 bylaws provided for a democratic structure that enables women to carry out the Union's activities through its ten branches across the Kingdom based on a decentralized decision-making approach. The branches were administratively and financially independent entities supervised by an executive committee elected by the branches in the Union's general assembly. The Central Council enabled members elected by the branches to directly influence the Union's policies. This unique structure allowed the Union to reach a large number of females, who directly participate in formulating policies and implementing programs according to the situation of women in various areas.

After the issuance of the Law on Societies, the Union had to make adjustments in accordance with the law, which bars societies from establishing branch offices. As a result, the Union was to dissolve all its branch offices and establish a central entity in Amman that administratively and financially manages the branches, thereby reducing the authority of women in branch offices and limiting their communication with the Union.

Forcing the Union through the law to adopt a non-democratic structure contradicts the Union's principles of equality and democracy and represents a clear violation of the societies' privacy and right to set up their own organizational structure that corresponds with its programs and principles.

**Recommendations:**

- **Amend the Law on Societies and eliminate obstacles that prevent societies from performing their work freely and without restrictions, and prevent ministries' interference in the affairs of societies**
- **Increase women's participation in decision-making by increasing their chances of promotion in the public sector and eliminate the retirement age gap**
- **Increase female representation in the parliament and amend the Elections Law to replace the one vote system and adjust the method of calculating the quota.**

**Article 8: Participation at the international level: States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.**

Women's participation at the international level is still low and does not exceed 17% according to the Government report. The report clearly shows that the percentage of women in senior positions (3 ambassadors, and one head of mission) is much less than the above percentage. Women primarily have second and third level positions, indicating a major gender gap in the percentage of women in diplomatic missions and decision-making positions in them.

The report attributes the low participation of women at the international level to the social conditions and men's rejection of accompanying their wives on diplomatic missions<sup>5</sup>. However, the report does not illustrate which procedures the government follows to encourage women's participation at the international level and increase their representation in public office. It also does not indicate whether women themselves refuse to assume these posts, or that the government has a preconceived assumption of what women's reactions would be. If indeed women shun away from these posts, the report should provide the number of women who have refused to join diplomatic missions and the procedures taken to facilitate their assumption of these posts. The government should not have blamed its lack of determination to increase women's representation in diplomatic missions on social customs, but should have instead identified the means and procedures it uses to change these customs and traditions.

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<sup>5</sup> 5<sup>th</sup> Government Report to CEDAW Committee, P.25

Justifications given by the government in this regard indicate lack of awareness of its international obligation to be directly responsible to combat all forms of discrimination, including social, political or cultural discrimination. In this context, such justifications, despite their existence and the need to recognize them, should not be perceived as the main reason for low female representation in the diplomatic corps without having a government action plan that aims to change this stereotype and facilitate women's work in this field.

Amendments to the Jordanian Diplomatic Corps Ordinance of 1993 did not include any procedures or measures that acknowledge the constructed social differences between men and women and take into account the conditions of women. The Ordinance was based on formal equality principles but did not identify the obstacles that limit women's participation, and did not set rules that guarantee true equality of men and women in the diplomatic corps and international representation.

### **Article 9: Nationality**

**9/1 States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.**

**9/2 States Parties shall grant women equal rights with men with respect to the nationality of their children.**

NGOs and women's organizations demanding constitutional amendments organized protests and rallies and wrote petitions to change the Nationality Law. The Parliament rejected the amendments, citing three-dimensional justifications; political, economic and discriminatory mindsets.

The government report emphasizes that article 6 paragraph (i) of the Jordanian Constitution provides equality as it stipulates that "Jordanians shall be equal before the Law. There shall be no discrimination between them as regards to their rights and duties, on grounds of race, language or religion". Moreover, paragraph (ii) provides that "The Government shall ensure work and education within the limits of its possibilities, and shall ensure a state of tranquillity and equal opportunities to all Jordanians." The official report makes a reference to NGOs point view when it states "NGOs believe that the article originally in the constitution says "Jordanian", which uses the masculine language to refer to both "males or females", but the Jordanian Nationality Law of 1954, as amended, distinguish between Jordanians when it denies women the right to confer their nationality onto their children". The word "Jordanian" means every person who holds the Jordanian nationality in accordance with this law. That being said, it is not clear whether the official report is addressing the issue from the view point of NGOs, as mentioned in paragraph 74, based on the approval of the National Commission, which wrote the report, or based on the opinion

of the government, which the report must reflect. The Jordanian government stressed in many occasions that this issue is not about equality, and that a woman's inability to pass her Jordanian nationality on to her husband and children is not due to a constitutional flaw, but it is rather connected to the country's interests. Confusing what the National Commission aspires to with reality and with the government's failure has been used to avoid confronting the commission's demands and holding the government truly accountable.

Article 3 of the Jordanian Nationality Law gives only a male citizen the right to confer the Jordanian nationality "the children to a Jordanian father are Jordanian wherever they were born". This law connects citizenship rights to males in so far as they are the ones capable of protecting national interests. It is not clear what the expression "national interests" means and how would women's exercise of their rights threaten national security. According to statements of government officials, "granting women the right to confer the nationality would lead to granting the nationality to the children and the husband, whereas granting the right to men leads to conferring the nationality to the wife only." This indicates that children are considered subordinates to the father, not the mother, because he determines the identity of the children, whereas the wife is perceived based on her reproductive role only. Denying women this right is firmly associated with the idea of women's inferiority and stereotyped roles. Laws have been enacted that prevent women from enjoying full recognition of their comprehensive maternal role in raising children and determining their fate, which overlaps with custody and guardianship laws, which identify the father as the person responsible for children's affairs and gives mothers childcare rights.

Associating the national identity with men is embodied in the government's refusal to amend the Nationality Law based to protect the Palestinian identity, as mentioned in paragraph 74 of the official report. "Members of the Arab League agreed not to grant Arab nationalities to Palestinians in order to preserve the Palestinian identity<sup>6</sup>. This justification, which was presented to NGOs as a political decision, does not explain how a Jordanian man's right to confer the nationality to a Palestinian woman upon marriage would not threaten the Palestinian identity, whereas a Jordanian woman is not entitled to pass the nationality on to her Palestinian husband because that would threaten the Palestinian identity. This political justification is the product of a patriarchal midst that opposes women and women's right. Politics is used here as a tool to maintain discriminatory practices. If this is the case with Palestinians, then what about Syrians, Iraqis and Egyptians, or any other nationalities?

The Residence and Foreigners Affairs Law No.24 of 1973 does not facilitate the residency of foreign husbands and children of Jordanian women. The government report indicates in paragraph 75 that "the Ministry of Interior grants the children of a Jordanian woman married to an alien annual residency permits, as long as they required their mother's care." The decision to give the children of Jordanian women residency permits based on their

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<sup>6</sup> Government Report, P.26

needs for maternal care is also defined by the woman's role as a care provider for her male and female children of a certain age, as opposed to her right to take responsibilities of her children irrespective of their age. This issue is defined by a "humanitarian" approach not a rights-based approach, which makes the criteria for dealing with these cases varied and not based on clear procedures. As a result, women would seek assistance and intervention of tribes, instead of relying on the law and the clear transparent criteria, which encourages nepotism and corruption in society to persist. Several women noted that they have paid money to some persons to intervene and help solve their existing issues.

NGOs have reviewed thousands of cases of women: married to aliens, widows, and divorcees of non-Jordanians who have suffered from discrimination against the children and husbands of Jordanian women in polices, education, health, employment. Inability to pursue higher education due to high tuition fees on foreigners leads many families to rush into marrying off their daughters due to lack of learning and job opportunities for them. The official report does not describe any procedures adopted by the government in this regard and only mentions that the National Commission is in the process of developing a questionnaire to monitor difficulties facing women and means to render solutions (paragraph 75).

#### **Recommendation:**

- **Remove reservation to article 9 of the Convention and amend the Nationality Law to prevent discrimination between women and men in passing the nationality on to children and spouses.**

#### **Article 10: Education**

**States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men the field of education and the in particular to ensure, on a basis of equality of men and women:**

Jordan has made actual steps to limit illiteracy. According to the 2010 gender indicators of the Department of Statistics, the percentage of students in enrolled education is 91%, which is one of the highest in the world. Illiteracy is at 10% among women and 3% among men. Illiteracy among women reaches 17% in rural areas and reach to 20% in some cities like, Maan in the South of Jordan.

The gap between males and females in vocational training is greater. The percentage of women in vocational training does not exceed 1.6% compared to 98.4% of men in most governorates. Investments were made in vocational training and men are encouraged to enrol in it due to market needs for technical skills, and high unemployment rates among university graduates. The above percentages show that investment in men is higher than

in women in this sector because these jobs are specific to men, require physical strength, field work, or skills that fall under the definition of men's jobs. While men receive training in vocational centers across the kingdom, women are not encouraged to join these centers and no special vocational training centers were established for women to help reduce the unemployment rate of 61%<sup>7</sup> among women who hold bachelor degree. This high unemployment rate among highly educated women is associated with the type of education women are encouraged to enrol in, namely: education and health. There are no clear policies for a specific action program to change the social conception regarding the employment of women, which would encourage women to enrol in vocational training or other forms of practical learning.

The percentage of women graduating from humanitarian science colleges reached 57% in 2010, according to Department of Statistics sources<sup>8</sup>. Women in higher education majors, such as engineering is still low (29,7%) compared to men (70.3%). In telecommunication jobs the percentage of women is 16.3% and men is 84.3%. In computer science the percentage of men is 37.8% and women is 62.2%.<sup>9</sup> Women comprise nearly 25% of the staff of science colleges in various universities and 19% in arts colleges, which is a low percentage compared to the number of female graduates from these colleges.<sup>10</sup>

In some cases, the number of women is high in the education sector. However, that indicates a policy to change the stereotypes of women's employment and education. In fact, this high number reinforces a woman's image and skills as a care provider. For example, paragraph 80 of the Government Report indicates a tendency to make employment in elementary education exclusive for women, who are, according to the report, more capable of dealing with that level. "The number of female school principals and male school principals vary greatly. There are 4,147 female school principals, as opposed to 1,523 male school principals. This is attributed to the fact that elementary schools are managed by females, who are considered more competent to deal with that age group."<sup>11</sup>

The report indicates that the National Agenda (2006-2015) encompasses the principle of equal opportunities in education and encourages women to enrol in vocational training. However, the National Agenda is basically a documentation that lacks related work mechanisms and an implementation timeline. It also does not contain the principles of substantive equality. Most importantly, NGOs, especially women's organizations, did not participate in discussing the draft agenda or developing its outline.

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<sup>7</sup> Department of Statistics, Unemployment In Jordan Survey, 2010

<sup>8</sup> Gender Indicators in Higher Education, 2009, Department of Statistics  
[http://www.dos.gov.jo/sdb\\_pop/sdb\\_pop\\_a/ehsaat/alsokan/wom\\_in/gender2009/edu\\_up/10.pdf](http://www.dos.gov.jo/sdb_pop/sdb_pop_a/ehsaat/alsokan/wom_in/gender2009/edu_up/10.pdf)

<sup>9</sup> Gender Indicators in Education, Department of Statistics, 2008  
[http://www.dos.gov.jo/sdb\\_pop/sdb\\_pop\\_a/ehsaat/alsokan/wom\\_in/home\\_w22.htm](http://www.dos.gov.jo/sdb_pop/sdb_pop_a/ehsaat/alsokan/wom_in/home_w22.htm)

<sup>10</sup> Ibid

<sup>11</sup> Jordanian National Commission for Women, 2009, the 5<sup>th</sup> Government Report to CEDAW, Para 80

The report points out that early marriage is not common in Jordan and therefore does not pose an obstacle to women's education. Department of Statistics' figures show that the average marriage age for the first time is 25.9 for women and 28.9 for men. These figures date back to the year 2000.<sup>12</sup> Two reports health and population reports were issued later in 2007 and 2009 respectively by the Department of Statistics. The 2009 report provides that half of women in Jordan marry before the age of 22, 16% before the age of 18, and 6% marry upon turning 15.<sup>13</sup> These percentages indicate that early marriage still pose a challenge to women's education in general, especially higher education, and employment.

As for opportunities available to women in higher education and Ministry of Education's scholarships, the report states the number of women nominated for scholarships abroad, but that number does not correspond with the actual number of women sent on scholarships.

### **Recommendations:**

- **Formulate clear policies for a specific action program that aim to change society's perceptions about women's employment, thereby encouraging women to pursue vocational training or practical education programs;**
- **Provide scholarships and study trips for women to pursue higher education and increase the number of women in the teaching staff of universities**
- **Give effect to the Mandatory Education Law and establish penalties on families that force or encourage their daughters to drop out of school**
- **Cancel exceptions in the Early Marriage Law so as females are not forced to marry or leave school.**

### **Article 11: Employment**

**States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:**

Despite the designed and implemented strategic plans and policies in the past twenty years, which aimed to advance the economic and social role of women, the actual participation of women in economy and the labour market is still modest and below the desired levels. Official figures indicate that the rate of economic participation of Jordanian women (ratio of the female workforce to population of females over 15) in 2010 was still very low, reaching 14.7% among women compared to 63.5% among men. Considering the fact that women's participation is around 20% in Arab and third world countries and 50% in advanced

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<sup>12</sup> National Commission Report to CEDAW, Para 87, P.29

<sup>13</sup> Department of statistics, 2009, Health and Population Report

countries, Jordan's indicators show that the achievement made so far is, by comparison, below the desired level.

On the other hand, males comprise 81.6% of total economically active persons, whereas economically active women constitute 18.4%. Raw economic participation rate of men is 40.2% and of women is 9.4% in 2010.

Moreover, Social Security Corporation's figures of 2008 indicate that around 25% of total persons registered in social security are women. A survey of employment opportunities created by the Jordanian economy in the first half of 2010 indicates that around 24,000 jobs were created for women, i.e., 37%. On the other hand, the survey showed that net job opportunities created for men reached 41,000 jobs, i.e., 63% of the total created jobs. This percentage represents an increase compared to 2009 figures, but the gap is still wide, which reflects a drop in women's participation in economic life and the labour market. Studies have shown that jobs created for and assumed by women in 2009 represented 19% of total jobs, compared to 81% to men.

Considering the fact that women comprise one third of the workforce in the public sector and half of the female work force in general, employment rates seem very humble:

- The unemployment rate slightly dropped by 0.4% to 12.50% in 2010 compared to 12,90 in 2009;
- The unemployment rate reached 10.4% among men compared to 21.7% among women in 2010 compared to 10.3% and 24.1% for men and women respectively in 2009;
- The unemployment rate reached 10.2% among men and 21.1% among women in urban areas, and 11.5% among men and 24.8% among women in rural areas in 2010.

Women in Jordan face uneven challenges compared to men in the workplace with regard to education. Based on 2009 figures, women comprised 51% of undergraduate students in various universities). Women's participation in the workforce of the organized private sector and small establishments and unorganized sector is low due to lack of appropriate work conditions for women.

Women also face clear discrimination with regard to wages. The gap between men and women reached JOD 38 more for men per month. The average wage of male employees in Jordan is around JOD 315 per month, whereas the average wage of female employees is around JOD 277 per month for women. This gap is higher in the private sector than in the public sector, reaching JOD 66 in the private sector and JOD 27 in the public sector.

The main findings of the Department of Statistics Report indicate:

- The average monthly wages in the public and private sectors for both sexes reached JOD 365 in 2009, compared to JOD 327 for females in 2009;
- The average monthly wages in the public sector for both sexes reached JOD 412 in 2009, whereas the average monthly wages for males was JOD 434 compared to JOD 371 for females in 2009;
- The average monthly wages in the private sector for both sexes reached JOD 338 in 2009, whereas monthly wages for males reached JOD 352 and JOD 283 for females in 2009;
- The average monthly wages for men is higher than that for women in all key professions in the private sector in 2009.

Table: Average monthly wages of employees in economic establishments by sector and gender in 2009

Sector	Gender	2009	
		average number	Actual average number
Public and private	Males	130.6	110.0
	Females	126.3	106.6
Public	Males	130.0	109.7
	Females	126.1	106.3
Private	Males	130.8	110.4
	Females	124.8	105.3

In addition, working women suffer from discrimination in promotions and training opportunities inside Jordan and abroad.

Women's weak participation in economic life in Jordan is one of the main problems facing national economy. On one hand, it prevents major potentials from participating in building and developing the national economy. On the other, it increases dependency ratio, making every four citizens dependent on one, which is among the highest rates in the world.

Women's economic participation in Jordan is influenced by their social status, number and ages of their children, and availability of work-related services, especially daycare centers. The size of the female workforce is strongly affected by the age and marital status of women. Women's withdrawal from the labour market increases proportionately with the increase in the number of married and pregnant working women. Moreover, the cost of recruiting married women is high. Employers solely incur the costs of maternity and nursing leaves. Being the ones who make the hiring decisions, employers refrain from recruiting married women.

Jordanian laws concerning the employment of women are considered to be advanced regionally and internationally and in line with relevant international labour standards. They grant women a 10 week paid maternity leave in addition to one nursing hour each day as of the date of delivery and require employers who recruit over 20 married female employees to prepare a proper facility for the children of female workers, provided that there is at least 10 children under the age of four. The law also bans the termination of a female's employment upon entering the sixth month of pregnancy or if she was on maternity leave. In addition, the law prohibits employers from assigning to women dangerous tasks that harm their health. The labour law deals with male and female employees without discrimination. However, these rights are violated in reality. Many female employees, especially in small organizations and unregulated sectors, do not receive the rights granted to them under the Labour law.

To remove some of the obstacles to women's increased involvement and inclusion in economic life and the labour market, some relevant laws were amended, namely the Social Security's law on establishing a special fund to cover costs of maternity and nursing leaves, whereby an employer does not bear on his own all the expenses. The Labour law should also be amended to expressly provide for equal pay for men and women, and require a minimum percentage of female employees in private sector companies (quota), and activate the role of labour inspectors so that violations against female and male employees can be stopped.

Also, campaigns to encourage women to join the labour market and encourage employers to recruit women need to be intensified. Periodic reviews need to be conducted of the different strategies and programs initiated by relevant public institutions or NGOs that aim to promote women's role in economic life and the labour market, not only to codify and safeguard women's rights, but also to ensure the realization of these rights.

### **Amended Labour Law of 2008**

Amendments to the Labour Law expanded the scope of legal protection offered to women in agriculture and female domestic workers. Those two groups were excluded from the law in the past but now they are governed by it. Given the fact that many domestic workers are often victims of

violence and sexual harassment, it has been decided under the law that regulations on dealing with this group be issued. However, the regulations have not been issued yet.

The most notable amendment to the Labour Law is expressly addressing sexual harassment in the workplace. Article 29/6 of the Amended Labour Law of 2008 provides that:

a- An employee may leave work without notice, retain his end of service entitlements and earn compensation for damages in the following cases:

6- If the employer or the employer's representative abuses the employee during work physically or verbally, or by any form of sexual abuse punishable under the provisions of applicable legislation

b- If it transpires to the minister that the employer, or the employer's representative, had abused the employee by way of battery or any form of sexual abuse, he may decide to close down the employer's establishment for the duration he deems appropriate, provided that the provisions of any other legislation remains applicable.

A close examination of this article shows that the law gives the male and female employee the right to leave work and demand compensation for arbitrary dismissal, which amounts to a three to six months' salary plus a one month notice allowance, if s/he is subjected to abuse. However, the law ties the right of the worker to abuse committed by the employer himself or his representative. It does not address cases where the act is committed by another employee and does not stipulate a specific mechanism for punishing the offender if s/he was not the employer nor his representative. Therefore, offenders escape punishment, unless the victim files a complaint under the Penal Code.

Sexual harassment is punishable under the Labour Law but defined in accordance with the Jordanian Penal Code, which does not mention the term "sexual harassment". Accordingly, a judge is left to determine at his own discretion if a case involves sexual harassment or not. He may not, for example, consider that a certain expression constitutes sexual harassment. Therefore, the law should have been drafted in a way that ensures consistency and harmony with other applicable laws. Moreover, since the general rule provides that "no act is considered a crime, unless there was a specific legal provision on it", a judge may decide at his own discretion that the Penal Code makes no mention of the term "sexual harassment" and therefore it cannot be criminalized. A sexual harassment is proven by any all methods of proof based on the fact that the law provides that the work relationship can be proven by all methods of proof, including witness accounts. The Jordanian Law on Evidence also provides that emails can be used as proof.

### **Recommendations**

- **Train judges on how to make articles related to sexual harassment effective and which acts constitute sexual harassment. This also applies to violence, which is not identified in the Penal Code;**

- **Amend the Labour Law so as to expressly provide for equal pay for men and women and impose a certain percentage as a minimum of women working in private sector organizations (quota);**
- **Activate the role of labour inspectors so they can stop violations committed against female and male workers, and train inspectors on how to investigate gender-based violations**

**Article 12: Healthcare and Family Planning : 12/1 States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning**

In the past years Jordan has made noticeable progress in the health sector. Life expectancy increased to 74 among women and 72 among men. Also, infant mortality rates, and death of women during child delivery has also decreased. Accordingly Jordan has achieved the millennium development goals in the health sector with regard to life expectancy rates, and mortality rates among children and women. The Government Report provides comprehensive statistics about these issues, which indicates Jordan's interest in the health sector. These statistics are supplemented with periodic reports and figures, such as the Department of Statistics' Reports on Family Health and Population for 2007 and 2009, which provide considerable information about women's health in urban, rural, and badia areas. However, these reports cover only women between the ages of 15 and 49 and do not provide information about women beyond that age. Also, they only provide information about the reproductive role of women and do not provide information about women's sexual health or other general health issues.

While the 2007 family health and population survey briefly provided a special section on violence, the 2009 report excluded this issue. The 2007 report indicated that one third of married women in Jordan is subjected violence by their husbands, nearly 5% are subjected to violence while pregnant, 5,7% were forced to have sex with their husbands, and 10% of women violence victims have sought help from one of their relatives or organizations' aid centres<sup>14</sup>. Although NGOs' figures and statistics indicate a rise in violence among married women, especially physical, emotional and sexual violence, the indicators provided by the 2007 survey should have been used and built on to arrive at a more realistic conclusion about violence against women. The special section on violence is separate from the remaining parts of the report, which indicates that the persons in charge of the surveys lack sufficient awareness of how to deal with cases of violence against women from a health-related perspective.

None of the government reports include information on abortion and its causes. Violence is considered one of the main causes of abortion. The government has not so far accepted

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<sup>14</sup> Department of Statistics, 2007, Family Health and Population Survey

NOGs' demands to allow abortion in rape and incestuous adultery cases, which has a massive effect on women and children. Due to the government ban on all forms of voluntary abortion, women put their lives at risk in private clinics and agree to be exploited by doctors if they choose to have an abortion. Therefore, the state must reconsider this issue, especially that there are several religious opinions that allow abortion in specific circumstances or before the fetus reaches a specific age.

The government report points out efforts by health centers in facing violence against women and providing training courses to staff in the health sector. From dealing on daily basis with different cases, NGOs believe that the staff in the health sector generally still lacks basic skills in dealing with violence cases. Several registered cases prove that doctors, and male and female nurses ignore some injuries resulting from violence and deal with them in a way that does not encourage women to report these acts, or obtain the medical report. In addition, a medical report is issued by the forensic specialist, who is not always available at general medical centers, which affects the speed of obtaining the report and poses obstacles to women as they try to prove the violent act. It is noticed that forensic reports in cases of violence systematically call for a suspension of less than 10 days, which makes it equivalent to a misdemeanour. Therefore, if a woman drops the complaint there is no public right case to be pursued. Medical reports that call for more than 21 days of suspension are few and the cases are not treated as crimes and the offender may pay a small fine instead of the sentence in the absence of other deterring methods.

NGOs work with health centers is not facilitated. There are no referral mechanisms between NGOs and forensic doctors. Procedures generally rely on individuals in the health sector and their personal desire to deal with cases referred from NGOs.

With regard to using birth control methods, a family health and population survey of 2009 shows that the use of birth control methods is on the rise among women. However, two out of five women stop using them after a short period for various reasons, such as unsuitability of the method and the desire to have children<sup>15</sup>. The survey showed that 2.3% of women have discontinued the use of birth control methods and 7% have never used them at all<sup>16</sup> due to the husband's objection. Reasons related to the husband clearly indicate that pregnancy decisions within a family are controlled by the husband. The most commonly used birth control methods are those used by the female, such as shots, pills, and diagrams. The report shows that the least used method is condoms, which has less or even no negative effects on women compared to other contraceptives. The rare use of this method is attributed to misconceptions about its effect on a man's sexual drive and pleasure, which sometimes outweighs the importance of women's physical and sexual health. Therefore, the role of family planning centers must not be limited to dispensing birth control methods but should also include raising awareness about all methods and selecting the best for a woman.

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<sup>15</sup> Department of Statistics, 2009, Health and Population, P.79.

<sup>16</sup> Ibid, p.80

More focus should be placed on raising men's awareness of family planning issues and adopting procedures to reduce the pressure on women to stop using contraceptives and allow women to be more in control of pregnancy decisions, since they are more aware of their bodies and they are the ones who bear the implications of that, such as raising and taking care of the children.

Women with disability generally did not receive sufficient attention in the Government Report, especially with respect to the general and reproductive health of women with disabilities. The report only mentioned the National Strategy for Disabled Persons but did not identify procedures adopted in this respect. It also did not provide information about types of disabilities women have. Violence against women with disabilities is one of the least examined issues due to those women's inability to reach centers that receive complaints, such as healthcare centers. Most centers and hospitals are not well-equipped to accommodate women with disabilities and do not provide special care for them. Families of women with disabilities suffer because they are unable to follow up on their daughters' treatment or perform periodic checks for them due to lack of services and qualified medical staff to deal with disabled women. There is a need, for example, for staff that master sign language and know how to deal with cases of intellectual disability.

One of the most debatable issues in the Jordanian society is sterilisation of females with mental disabilities. This operation is performed to spare families the troubles that arise at the time of the period, or for fear that the female could get raped and become pregnant. This issue constitutes a grave violation of the body of females with mental disability. The state bears liability for this because it does not provide training centers and specialists to train girls on cleanliness and hygiene, especially in cases of severe mental disability. The success of these trainings had been proven in many private centers, but they are very costly and parents cannot afford them. The participation of medical specialists from the public and private sectors in sterilisation of females with disabilities shows that the state admits that the rape of females with mental disability is not as important as avoiding pregnancy and giving birth. Accordingly, the state allows rape incidents to continue in the absence of indicators and the female's inability to report the incident or explain what happened to her.

**Case Study 3: Sterilisation of females with mental disability<sup>17</sup>**

This is a recurring issue in society, especially affecting teenage females with mental disabilities, who undergo Hysterectomy upon their parents' decision based on the assumption that this operation is for the female's good. The following cases are

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<sup>17</sup> This case study was prepared by the National Alliance for the International convention on the rights of persons with disabilities, which participated in providing comments on the 5<sup>th</sup> government report to CEDAW through the Women's Committee at the Jordanian Alliance for Drafting Shadow Report o CEDAW.

examples:

Enas is a female who suffers from severe mental disability. She underwent hysterectomy at the age of 16. While talking to her mother, it appeared that Enas had reached puberty at the age of 11 and had irregular periods that lasted five to ten days on average.

The mother went to see a gynaecologist for the bleeding. After one year of treatment to control and regulate the menstrual cycle, the gynaecologist suggested to the mother that hysterectomy would completely rid Enas of the problem. The mother went to a counsellor who confirmed that Enas is not self-dependent and cannot maintain her personal hygiene. Enas was later examined by a specialist at the Obstetrics and Gynaecology Section at Al Bashir Hospital. The mother informed the specialist that she would want her daughter to undergo hysterectomy and he accepted, provided that a religious opinion is sought, but he did not explain what complications this procedure would cause to Enas' health.

The mother made a decision to have her daughter undergo hysterectomy, especially after Al Ifta'a Department did not provide her with information about whether or not this procedure is allowed in religion. (Al *Ifta'a* Department is the official entity that serves as a reference for religious opinions on specific cases and their permissibility in Islam). The Mufti (religious scholar at the Department) had asked the mother to visit the department with her daughter, but she could not do so. Therefore, she sought the help of another specialist in religious opinions from outside the *Ifta'a* Department, who arrived at the conclusion that in light on the information provided to him from the mother and without reviewing the medical reports **hysterectomy is allowed**. However, that does not apply to all cases.

Enas' father was against the operation but changed his mind after he saw all the trouble his wife goes through to take care of their daughters and maintain their personal hygiene and health. The mother asserted that she will request that her second daughter, Haneen, who is 15 and also suffers from the same disability, to undergo the same operation because she faces the same difficulties that Enas had faced.

#### **Operations statistics:**

In an article published in a local daily newspapers, the head of the Obstetrics and Gynecology Section at Al Bashir Hospital, Dr. Issam Al Shraideh, confirmed that the hospital performs around 3-4 hysterectomies on females with intellectual disabilities each year. While there is no clause in the law that expressly prohibits hysterectomy of females with intellectual disabilities, the legal rule in the Jordanian Penal Code

provides that “no damages may be inflicted on a person without a medical excuse”. Also, the law calls for protecting the safety of the human body and provides that “no organ may be removed from a person, unless that would lead to improving the health condition of the person.”

The justification that parents give for hysterectomy of females with intellectual disabilities is the need to stop the constant bleeding, medical specialists in this field confirm that:

- Females, aged 12 to 16, including those with intellectual disabilities, usually experience irregular and relatively heavy menstrual cycles,
- Sometimes the menstrual cycle of intellectually disabled females is heavier than that of non-intellectually disabled females for two reasons:
  1. Some of the regularly used medications for the type of the intellectual disability a female has;
  2. A treatable thyroid disorder

**Note: medical reports of performed hysterectomies attached**

### **Recommendations:**

- **Develop a special protocol for the health sector on how to handle violence cases and train staff in the health sector on how to deal with female victims of violence**
- **Provide the necessary care for female victims of violence in public hospitals in special sections for domestic violence run by a specialized team.**
- **Raise women’s awareness of the need to use contraceptive methods, highlight their effects and the most suitable method for a woman depending on her health condition.**
- **Allow abortion in sexual abuse cases**
- **Prohibit hysterectomy of females with intellectual disabilities and impose penalties on doctors who perform this operation in the private and public sectors**
- **Provide the necessary care and raise awareness on how to deal with various health-related issues of women with disabilities.**

### ***Article 13: Economic and Social Benefits***

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

#### **13/A Right to family benefits**

Under article 25, the Civil Service Ordinance of 2007 grants family allowance to a male employee, but grants a family allowance to a female employee only if her husband was diseased or physically disabled, or if her children were her dependents. This article discriminates between men and women on grounds of their respective responsibilities in society. In the same context, the Ordinance denies the family of a deceased female employee the chance to receive her pension, except in cases where families need the pension (article 34). In this case, a family must provide proof and evidence that it needs the pension. However, if the female employee passes away before she retires her family is given a monthly retirement allowance that equals 75% of the amount she would have been entitled to have she not died before retirement and in accordance with the same conditions in article 34. This is a flagrant discrimination that contradicts the principles of the CEDAW, which call for equal rights for men and women without discrimination.

The Civil Code and the Labour Law also deny the widow, daughter, mother, or sister of a deceased person the right to receive his retirement allowance if she is married. The Government Report justifies this on the basis that “a woman’s dependency is transferred upon marriage to the husband, who is legally bound to provide for his wife and secure all her needs.”<sup>18</sup> According to this, the report asserts the man’s responsibility to financially support his wife because he is in charge and assumes higher authority in the family. The authority to provide financial support is transferred from one man to another upon marriage and divorce, which undermines women and diminishes her legal and social standing.

**Recommendations:**

- **Amend the Civil Status Ordinance to cancel all discriminatory clauses, and precisely give women the right to receive family allowance and pass her pension on to her family upon her death, regardless of the family’s financial status, similar to men.**

**13/C The right to participate in recreational activities, sports and all aspects of cultural life**

While there is no discrimination or legal barrier that prevents women from participating in sports, cultural and recreational activities, there is no procedure to encourage them to join these activities either. Youth clubs across the Kingdom are restricted to men and, in many cases, women cannot access them for that reason. The Ministry of Culture and Youth has not designated similar clubs for women, nor has it allocated budgets for that purpose as it did for centres for young men (not all centres enjoy the same level of attention; there is distinction based on the region and the club’s achievements in sports games).

Recreational activities and sports games are still perceived by society as limited to men, while women are prohibited from participating in them. Women usually participate up to a certain age

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<sup>18</sup> Jordanian National Commission for Women, 2009, 5<sup>th</sup> Government Report to CEDAW, Paragraph 163, P.53.

and only in limited types of activities. They are not encouraged to pursue after-school sports or cultural activities and their involvement ends upon entering college or getting engaged and married. There had been no procedures to change these social misconceptions about the importance of cultural and social activities for women to fulfil intellectual, emotional, and health needs.

Women's participation in these activities varies greatly depending on the social and economic status, and place of residence. Women in wealthy areas in Amman have all the financial means to join clubs and various activities. On the other hand, because these services are costly, women in poor areas in Amman and other governorates cannot afford them. As a result, the physical and physiological health of women varies depending on the level of their involvement in sports and recreational activities, which helps protect them against illnesses and premature senility. These centres are nonexistent in villages and the badia areas and there are no activities by the government or the private sector to enhance women's creativity and talents in those areas.

**Recommendations:**

- **Establish clubs for women similar to young men's clubs across the Kingdom**
- **Encourage women to play sports and make various sports accessible for women at reasonable costs.**

***Article 14: Rural Women:***

Working in the agricultural sector is common among Jordanian women in rural areas, who are particularly active in harvesting, planting and weeding. Similar to migrant workers (imported labour), Jordanian women in the agricultural sector earn low, mostly daily, wages that range from JOD 4 to 6, provided that the employer secures transportation from their homes to the work location and vice versa – usually by pickup trucks rather than special vehicles for transporting passengers. Like other workers in the agricultural sector, women are subjected to exploitative practices. They lack safety and health conditions in the workplace, all forms of health insurance, and other forms of social insurance, such as social security.

**Recommendations:**

- **Include agricultural workers in the Jordanian Labour law, monitor violations against female agricultural workers, and determine punishments for offenders.**

***Article 15: Equality before the Law***

**States Parties shall accord to women equality with men before the law.**

**States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal**

**rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.**

Personal status laws, which will be mentioned in detail later, impact women’s legal standing and capacity in transactions, courts and civil departments. Many discriminatory practices are attributed to women’s inability to make decisions independently and need to obtain prior approval from their husbands or fathers, who are their guardians and bear the responsibility of overseeing their matters. Some civil laws deny women the ability to be directly in control of matters related to their children, even when a woman is the custodial parent after separation from her husband. Therefore, women cannot decide matters related to their children’s education, travel, or other civil procedure matter. For example, article 123 of the Civil Code provides that “The guardian of the minor shall be his father followed by the guardian appointed by his father followed by his lawful grandfather followed by the guardian appointed by the grandfather followed by the court or the guardian appointed by the court”. Accordingly, a woman cannot handle the process of registering a child and obtaining a birth certificate for him unless upon the written approval of the husband, who is granted the right to recognize a child. The Jordanian Women’s Union contacted around 300 women who could not register their children due to the absence or refusal of the husband. The following cases demonstrate part of the suffering of women in this field:

**Case Study No. 4**

A Jordanian mother of two contacted the counseling hotline in 2009 and complained that the Civil Status Department had refused to register her 4 and 6 year old children because the Department considers that she is unauthorized to apply for the birth certificates of her children. The husband, “the father of the two children”, had abandoned them a year ago and the woman does not know where he is. Therefore, the woman went to the Zarqa city branch office of the Jordanian Women’s Union and requested litigation services and legal representation. A female lawyer took this woman’s case and filed a motion to the Civil Status Court to order the Civil Status Department to issue two birth certificates for the children. As a result, the court ruled in the woman’s favor and considered that she has standing because she has a lawful interest. However, the civil attorney general appealed the decision on grounds that the mother is not authorized and lacks legal standing even if she was in custody of the children. He indicated that article 123 of the Civil Code provides that the father is the guardian of the children and that he has authority to apply for birth certificates. Accordingly, the decision of the first instance court was cancelled and a decision barring the mother from applying for birth certificates for her children was rendered by the appeal court on grounds that the mother is not the guardian. Consequently, the older son was denied the chance to go to school and enjoy public health insurance like other

children his age.

#### **Case Study No.5**

A divorced mother of one contacted the Jordanian Women's Union counseling hotline. The mother is in custody of the child and the father has visitation rights. Since a Jordanian child may not leave the country, unless the father gives approval in writing at the police station, a specialist intervened to try to get the father's approval but he refused completely. The mother was advised by the lawyers to apply for a temporary curatorship certificate "Hujjat Wisayah" from the competent Shariaa Court to be able to travel with her child for two weeks. The woman was given the needed application forms and required documentations and sent to the court. However, the judge refused the woman's application although she explained the matter to him and said that she would be ready to give guarantees of the child's return. Nonetheless, the judge refused despite the fact that the Civil Status Law permits the custodial parent to travel with the child.

Even when there are no problems between the husband and wife, the Passports Departments' staff insists on receiving the father's approval for the children's passport applications. Several female activists provided that they were banned from travelling with their children because they did not have the father's approval to travel. One activist stated that she was once forced to return with the children from Jordan's borders with Syria because she did not have written approval from her husband, who was in the United States and had been there for seven years. She said that she had to wait for the husband's sister to sign a release on his behalf allowing the wife to travel with the children. The irony here is that the mother cannot be trusted to travel with the children, whereas the children's paternal auntie, who is not as closely related to the children as their mother, is more trusted.

While the Civil Code considers that an 18 year old female has full and independent legal capacity in owning and administering property, violations are committed in some cases with respect to a woman's testimony in civil courts. Several violations were reported in which women were not allowed to testify on equal basis with men on grounds that the Personal Status Law provides that the testimony of one man equals that of two women, which is not applicable to civil courts. These violations are based on the social perception of women as inferior and unequal to men.

Despite removing reservation to Article 4/15 of CEDAW which relates to "states parties' obligation to grant women and men equal rights of free movement and freedom to choose their residence and domicile" and allowing women to obtain passports without the permission of their husband or father pursuant to the amendment of the temporary Passports Law of 2003, the Civil Status Department still requires women to obtain a written approval from the husband or father or ask the husband or father to go to the Department in person to issue a passport for women. These practices represent a major gap between the applicable laws and practice, because the mindsets of persons responsible of

implementing the laws were not changed. The law is still temporary and may not ever become passed by the Parliament. Therefore, the Government must issue a permanent law and supplement it with clear instructions for the Passports Department.

The Personal Status Law affects women's ability to seek employment freely without interference or pressure from their husbands. A wife is entitled to employment, provided that the job is lawful and approved by the husband. A woman may not work without the approval of her husband, unless she had included a condition in the marriage contract to enable her to get a job without necessarily obtaining the husband's approval. Conditions in the marriage contract by women are not common because women are generally unaware of this right, which deprives them of their entitlements if they get divorced for insisting on working.

Women do not appear before *Sharia* courts on equal basis as men. A woman is represented in marriage cases by her father or legal guardian, whereas a man is represented by himself in a marriage contract. Several cases were reported of women being denied the opportunity to file claims in the absence of their guardians. Upon investigating this issue, the Union was told by judges that although this procedure is not stipulated in the law, it is adopted by most *Sharia* courts to preserve the unity of society, which could be jeopardized if women decide to seek divorce without the knowledge of their male guardians.

It is socially considered inappropriate, especially by law enforcement officials and in administrative departments at courts and public institutions, for women to go to these places unaccompanied by men. Therefore, women usually hesitate to go without men, who would protect them from potential sexual harassment that may occur in these places due to lack of organization and proper areas to queue up, and also because reaching the customer service counter requires physical strength.

#### **Recommendations:**

- **Seek to issue a permanent law that enables women to obtain a passport without the permission of their husbands or fathers. The law must be supplemented by clear instructions for the Passports Department**
- **Cancel discriminatory policies concerning the travel of women with their children upon permission or approval from the husband**
- **Seek to cancel discriminatory procedures in courts, administrative procedures and stipulate special penalties for violations and those responsible for discriminatory practices against women.**

## *Article 16: Marriage and Family Relations*

### **16/1/C The same rights and responsibilities during marriage and at its dissolution**

The Government Report states in paragraph 196, page 63, that a marriage is not deemed valid unless upon the full and complete consent of the woman and that her guardian is her representative. However, the report overlooks the fact that women cannot conclude a marriage contract unless in the presence of her guardian, who performs all procedures related to concluding the marriage contract. It also loses sight of the fact that consulting the woman and gaining her consent is only a formality done after finalizing the contract to endorse what the guardian had done. Having a man act on behalf of the woman in a marriage contract is grounds for an unequal marriage. A man can get married by himself but a woman has to be represented by another man, which indicates a woman's lack of independence and shows that a marriage contract is concluded by and between males only.

While both men and women are allowed under the law to include conditions in the marriage contract, the conditions a woman can include are only those associated with the woman herself, such as employment, education or place of residence. However, the conditions a man can include in a marriage contract are not related to himself but rather to the woman and her rights. For example, a man may add a condition banning the woman from working or pursuing further education, etc. Therefore, the contract does not treat the two parties equally. The government report considers the idea of adding conditions to a marriage contract positive, but we believe otherwise. A man should not be entitled to prevent a woman from exercising her human rights. If a woman does so, she should not be punished by divorce or deprivation of her rights on grounds that she is disobedient "Nashiz" if she does so.

The official report (paragraph 197) provides that reservation to the clause in article 16 of the Convention is maintained because the man is the one who bears financial responsibility. It adds that a husband and wife have different responsibilities in the household. He assumes financial responsibility upon entering into the marriage contract, during marriage, and upon ending the contract, whereas a wife bears no responsibilities in this respect. This justification undermines a woman's status as a basic partner in marriage. It holds the husband as the guardian of a woman because he is in charge of the finances upon, during, and at the end of a marriage. The report cites a Sharia opinion in this respect not only to justify the government's lack of determination to realize equality, but also its determination to hold men as superior to women in family matters and maintain the imbalance between men and women not only within families but also in the broader public context. A man remains in control of a woman's access to education, employment, or decision-making positions. Many women are denied these opportunities by virtue of their family responsibilities and the fact that they are not financially responsible in the family, since the Personal Status Law provides that a man can divorce his wife if she does not agree with him or undertakes any act against his consent.

**On the report's response to the Committee's request for reconsideration of polygamy in the year 2000 in paragraph 175:**

The report provides in paragraph 198 that polygamous marriages were nearly 7% in 2008. Therefore, the report believes that polygamy is not a major issue in Jordan. NGOs' concern is not about the number of wives but the principle that grants a man the right to marry another woman and have two or more wives at the same time. Even if all conditions for fairness and justice are met, this principle nonetheless undermines a woman's dignity and right to have a decent life on the basis of equality. Polygamy regards women as objects that men can list as their property. NGOs have tried to establish controls and conditions for polygamy as a first step towards banning it, not for reasons based on the NGOs opinion of polygamy, as the report states. The government relies on one religious interpretation that permits polygamy, although there are other interpretations, like the one used by Tunis to ban polygamy, which indicates that the government is being selective in adopting religious interpretations that correspond with its opinions and beliefs regarding women and their rights.

**16/1/D The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;**

The report cites decision No.10 of 2009 by Al *Ifta'a* Council which provides that "*sharia* gives preference to women in the areas they excel in. An example of that is the right to child custody upon separation of the spouses. A woman is granted the right to child custody because she is inherently more capable to raise children". The report believes that is a positive distinction and to the advantage of women, but overlooks the Council's opinion of women's ability to raise children as "inherent". Granting women the right to child custody for being capable of nurturing a child exemplifies men's view of women as having a reproductive role only. In addition, indicating that raising children is "inherent" in women undermines the efforts required of women to take care of children, since inherent and natural abilities do not require effort. In addition, the Personal Status Law extends the custody period "if the children require care provided by a woman", making a woman's right contingent upon the children's needs for care. The law makes a distinction between Muslim women and Christian women married to Muslim men. A Christian woman keeps custody of her children until they reach the age of seven only. Thereby she is denied a right on the basis of religion, which contradicts the Convention and article 6 of the Constitution.

Fathers are granted guardianship of their children with managing the child's life and financial matters. A woman does not have a control over her child's education, or issues related to engagement, marriage, health or issuing official documentations, as mentioned above. A mother may be the curator of the child only in cases specified by the father, or the child's grandfather, in case of the father's death.

**The following review of the Personal Status Law of 2010 is conducted by the Jordanian Alliance for Amending the Personal Status Law:**

**Case Study 6**

**Review of the Jordan Personal Status Law of 2010**

- 1- Based on rulings rendered on visitations, a married woman requesting to see her children from a previous marriage cannot obtain a court ruling to see them at the marital home. She has to request to see them at her parents' home (the grandfather or grandmother of the children), or she could obtain a ruling to see them at special visitation centers, if she did not have any place other than the marital home or if the father claims that there is animosity between him and the her parents. On the other hand, a non-custodial, married father may see his children from a previous marriage at his marital home. When contacted and asked about the reasons for that, a judge from the Chief Justice Department replied that judges consider the perceived or expected danger from the mother's husband is greater than the perceived or expected danger from the father's wife. In attempting to further discuss this matter with the judge, he provided that judges decide these cases at their own discretion.
- 2- the amendment of the article about proving marital strife and discord "shiqaq wa niza" reduces the burden of proof on the wife, if she was the claimant and the judge verifies the validity of her claim according to Article 126/A. However, some judges still require the claimant wife to provide proof through witnesses who have heard and seen a strife and discord incident between her and her husband. On the other hand, a husband is only required to provide hearsay evidence (i.e., the witness had not necessarily heard or seen the strife and discord incident first-hand, but learned about it from another person), which reduces the burden of proof on the claimant husband and increases it on the claimant wife.
- 3- As for a wife's petition for divorce -"Iftida" previously known as "khulu"- no proof is required in so far as the petition is based on how she feels and her claim that she hates her husband and cannot stand to live with him. However, the practice right now is to require the wife to state under oath that she hates her husband, and her petition for divorce would be cancelled by the appeal court if she had not been asked to provide such statement under oath.
- 4- A woman's marriage to another man is still serves as a legal reason to deny her custody of her children from a previous marriage, unless the former husband approves and does not object to that. On the other hand, a man does not lose custody of his children from a previous marriage if he remarries.
- 5- Custody is seven for a non-Muslim mother years and 15 to 18 years for a Muslim mother.
- 6- Permission to marry for persons under 18 and over 15 years old is not subject to any controls and there are violations of the instructions in article 10 of the law
- 7- Obligatory curatorship "wasiyah" is only for the children of the son who dies during

the life of his father not the children of the daughter.

- 8- Article 61 of the law stipulates the conditions that enable a working woman to become entitled to an allowance from her husband "nafaqa". These conditions reinforce the husband's unfairness in approving or disapproving his wife's employment, making a woman's ability to exercise her right to work bound by her husband's approval.
- 9- Article 63 provides that a wife serving a final sentence in prison is not entitled to an allowance as of the date of her imprisonment.
- 10- Articles 74 and 76 are about the marital home. Article 74 allows a man's daughters and minor sons from a previous marriage to live with him in the marital home whereas the article 76 does not allow a woman's sons and daughters from a previous marriage to live with her in the marital home without the approval of her current husband, unless she was the owner of the house.
- 11- Matrimonial guardianship still applies only to the marriage of females not males.
- 12- Polygamy is still stipulated in the law
- 13- The testimony of one woman in court does not equal the testimony of one man. For a testimony to be considered valid, the law provides that two women testimony is equal to a one man's testimony.
- 14- A woman's divorce from her husband and her return to him are still contingent upon the man's will exclusively. A verbal divorce still inflicts damages on the wife because she is forced to file a legal action requesting that the divorce be proven.
- 15- Separation due to absence and abandonment is applicable in courts if the husband's absence or abandonment of his wife lasts more than a year. Accordingly, a wife may file a motion for separation due to absence and sustained damages. As per the law, if the husband appears in court upon being notified by the judge and demonstrates readiness to return and live with his wife or take her to live with him the wife's claim is automatically dismissed. If the husband abandons his wife once again even after just one month of the dismissal of the wife's claim, the wife will have to file a new claim upon one year or more of her husband's absence, which causes her damages.

### **Recommendations:**

- **Adopt a civil law that deals with the civil status matters of Muslims and non-Muslims**
- **Withdraw reservations to article 16 because they contradict the essence of the Convention**
- **Recognize the legal capacity of women by annulling laws on guardianship and curatorship of women**

### **Palestinian refugee women in Jordan:**

The main obstacle facing Palestinian refugee women in Jordan is the lack of a fair solution for their cause and their right to return to their country. This right is fully recognized in article 13/2 of the Universal Declaration of Human rights of 1948, which provides that “Everyone has the right to leave any country, including his own, and to return to his country”. Other legally binding human rights treaties also include similar provisions, such as the International Covenant on Civil and Political Rights (Article 12/4), and the International Convention on the Elimination of all Forms of Racial Discrimination (Article 5 D). On the other hand, the 1951 Refugees Convention excludes Palestinian refugees on the grounds that the United Nations Relief and Works Agency (UNRWA) was established to follow up on the affairs of Palestinian refugees, which restricts their issues to provision of services and needs only rather than addressing their right to return to their country.

Unemployment rates among Palestinian refugees in Jordan are estimated at nearly 60% of those of working age. Unemployment among women is higher. According to UNRWA figures, refugee women in Jordan support 14% of total refugee families. Around 46% of women provide for a total of 50,000 families in dire poverty. Out of one million and nine hundred thousand refugees, three hundred and fifty thousand live in thirteen refugee camps, according to UNRWA statistics.

Palestinian women managed to enter the job market in Jordan. However, after the administrative and legal disengagement from the West Bank, some Palestinians lost the Jordanian nationality and were given instead temporary Jordanian passports that do not grant citizenship nor nationality. This posed a bigger challenge to Palestinian women. The less education a woman receives, the less jobs she can find. Palestinians are treated as foreigners with respect to university education. Since university tuition fees for foreigners are several times higher than those for Jordanians, university education is not accessible for Palestinian women. As a result, their chances of finding proper jobs decrease or become non-existent. Unable to work in the public sector, refugee women are subjected to the private sector’s terms of employment, which take advantage of their bad economic situation and represent various forms of persecution and violence against women. For example, they are paid less than the minimum wage, and forced to sign contracts that stipulate wages higher than what they actually receive. Unfortunately, women are compelled to accept due to lack of work opportunities in other places.

Women in Palestinian refugee camps depend on ANRWA’s healthcare services, which have shrunk significantly in recent years despite the constant rise in camps’ population. Accordingly, such services could no longer cover the various healthcare needs of women. ANRWA’s healthcare services are available only during official work hours (7 a.m – 3 p.m). In case of emergencies, women face numerous obstacles if they attempt to go to public hospitals, which do not admit Palestinian refugee women who do not hold Jordanian passports, unless they pay a deposit in advance. Many families cannot secure that amount

of money, leaving many women exposed to risks, especially in cases of childbirth or miscarriage.

**Therefore, the Jordanian Government must:**

- **Seek to find a fair solution for refugee women by facilitating their return to their homeland**
- **Give Palestinian refugee women the same treatment Jordanian women receive in education and health**
- **Improve the living conditions in Palestinian refugee camps by allowing women to receive basic services**
- **Facilitate employment of refugee women and provide means for them to access jobs**
- **Seek to adopt and realize what is stipulated in the CEDAW Committee statement on refugee and migrant women adopted in October 2011.**

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## **Members of the Alliance**

- 1- Jordanian Women's Union
- 2- Baqa'a Women's Society
- 3- Adaleh Center for Human Rights
- 4- Arab Organization for Human Rights
- 5- Regional Alliance for Amending the Personal Status Law
- 6- Jordanian Alliance for Drafting the Shadow Report on the International convention on the rights of persons with disabilities
- 7- The Human forum for women
- 8- Women's committee at the Jordanian Bar Association
- 9- Jordanian Society for Human Rights
- 10- Tamkeen
- 11- Arab women Media Centre
- 12- Society for Human Rights Defenders
- 13- The counselling and Awareness Raising Center
- 14- The Coalition for migrant workers

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