



Report Submitted to the Universal Periodic Review

Jordan

Session 31

The Human Rights Council

October-November, 2018

Submitted by: Bushra Center for Women's studies and research

Name: Jehan Tawfiq Rashid Marjan

Phone: 0777915360

Email: bushra.center@gmail.com

About the Center:

Established on December 19, 2006, Bushra Center for Women's Studies and Research seeks to further promote rights of women and children and empower women on the local level. The center is located in Zarqa, Jordan.

Vision:

To empower women and children and enable them to become active members of the society; to promote positive engagement, productivity and work; to respect customs and traditions. The center believes that women's issues must be prioritized in any society, and that women must be active members, working to overcome common challenges.

Justice, equality, freedom and social cohesion are universal and shall remain devoid of any gender or racial bias.

Part One: Legal Framework of Jordan's Commitments to Children's Rights

According to article 6/4 of the Jordanian Constitution, "The family is the basis of society the core of which shall be religion, morals and patriotism; the law shall preserve its legitimate entity and strengthen its ties and values."

Article 5/6 of the Constitution also calls on protecting children, namely against abuse and exploitation. In addition, Jordan has ratified many international agreements on human rights,



emphasizing the protection of children, seeking their best interests and maintaining the integrity of families. These include two international covenants, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women.

Part One: A Child's Right to Self-Expression and to be Heard

According to article 12 of Convention on the Rights of the Child, "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

It also states that "the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child." However, this principle is totally neglected in personal status issues, namely with regard to guardianship and custody of children.

The Personal Status Law No 36 of 2010 regulated these issues without having to consult children. It fell short of making it mandatory to take their opinions into consideration.

In its concluding observations on the combined fourth and fifth periodic reports of Jordan, the Committee on the Rights of the Child said it was concerned that "that legal and administrative proceedings do not systematically provide for the right of children to be heard and that respect for the views of children remains limited owing to traditional societal attitudes towards children, and especially girls, within the family and the community at large."¹

Part Two: Early Marriage

In its article 10/B, the law allows 15-year-old minors to get married in accordance with special regulations should their marriage be necessary for their best interest. Minors, who get married as per these regulations, become fully eligible for all that pertains to marriage, divorce and their consequences.

However, article 5/6 of the Jordanian Constitution calls on the state to protect children against abuse and exploitation. Given that early marriage leads to physical, social and psychological abuse, allowing 15-year-old minors to get married contravenes the Constitution.

¹ CRC/C/JOR/CO/4-5, 8 July 2014, paragraph 23



While reviewing the special regulations issued for this purpose², we conclude that some provisions are either not enforced or ineffective. For example, article 9/A states that “the court may refer any marriage proposal for children under 18 to the reconciliation and mediation office formed under its jurisdiction”. Based on this article, it becomes clear that referring these cases depends on the discretion of the judge.

Furthermore, article 4/6 of the regulation states that the court must ensure that “marriage would not prevent minors from pursuing their education.” However, how can we actually ensure that minors do not drop out of school? What are the possible consequence of dropping out?

According to a study conducted by the Higher Population Council, an analysis of the 2015 Population and Housing Census revealed that the percentage of females who married in 2015 under the age of 18 to total females married in 2015 reached 18.1% on the national level compared to 11.6 % in 2011.³

The Committee on the Rights of the Child has already expressed concerns over the rise of early marriage in state parties, as thousands of minor females continue to get married because of the extensive use of derogation and broad discretion left to chief justice and legal guardians in that respect.

In addition, situations of poverty and out-of-wedlock pregnancy often result in authorizations of such marriages.⁴ These concerns were also stated in the concluding observations of CEDAW Committee on Jordan’s sixth periodic report.⁵

Part Three: Children of Jordanian Women Married to Non-Jordanians

Although article 6/1 of the Constitution states that “Jordanians are equal before the law”, gender-based discrimination is not explicitly prohibited as a form of possible discrimination. Consequently, the Jordanian Nationality Law No 6 of 1954 did not treat Jordanian men and women equally, denying women married to non-Jordanians, the right to pass on their citizenship to their children.

² Regulations No 1 of 2017 on the marriage of children aged 15 (solar years) and under 18.

³ Higher Population Council. Child Marriage in Jordan. 2017

<http://www.hpc.org.jo/hpc/LinkClick.aspx?fileticket=cEf0RpNYj1c%3d&tabid=556&language=ar-JO>

⁴ CRC/C/JOR/CO/4-5, 8 July 2014, paragraph 33

⁵ CEDAW/C/JOR/CO/6, 9 March 2017, paragraph 11



This clearly contravenes all international agreements ratified by Jordan, which explains why committees of these agreements have long been concerned about this issue.⁶

Following a long struggle to demand change, the cabinet issued regulations aimed at offering children of Jordanian women, born to non-Jordanian fathers, a number of privileges and facilities at the end of 2014. In order to be granted these special privileges, the following conditions apply:

- privileges are granted to male and female children of Jordanian women married to non-Jordanians
- privileges are granted to children, provided that their mothers have been residing in Jordan for at least five years
- children should have a legal residence permit
- children must be single

Should they meet these conditions, children are then given an ID card, which is expected to help them with:

- Work: children of Jordanian women married to non-Jordanians are allowed to work in professions that are exclusive to Jordanians, provided that there is no Jordanian alternative and they are exempt from work permit fees.
- Investment: they are allowed to invest and own property in the Kingdom as per relevant laws, by-laws and regulations
- Education: they are treated as Jordanians in elementary and secondary public schools.
- Health: minors, born to Jordanian mothers and residing in Jordan, can also benefit from their mothers' insurance at public hospitals and health centers as per the civil insurance regulations and bylaws.
- Driving: they are allowed to obtain a driving license, provided that they have a valid residence permit.

Children and spouses are not automatically granted the residence permit, necessary to benefit from these facilities, which renders them useless. Many people of this target group expressed disappointment after visiting government agencies, where employees seemed ill-informed on

⁶ See for example CEDAW/C/JOR/CO/6, 9 March 2017, paragraph 39 and CRC/C/JOR/CO/4-5, 8 July 2014, paragraph 15



these rights and said they "didn't receive any information or instructions on how to deal with them".⁷

Recommendations:

- Revisiting Jordan's nationality law and learning from other states in the region, which have successfully amended their national laws to ensure equality between men and women with regards to acquiring, changing, and keeping citizenship and passing it on to children and spouses.
- Enforcing privileges endorsed by the cabinet in 2014 without further delay, ensuring compliance by government agencies and publishing them in the official gazette
- Eliminating the condition that mothers have to have lived in Jordan for at least five years to allow a greater number of children to benefit from these facilities.
- Amending the residence and foreigners' affairs law, and taking necessary administrative measures to automatically grant spouses and children of Jordanian women a five-year residence permit, with the aim of maintaining the integrity of the family as the basic natural unit of the society, to be protected by the society and the state. If we fail to grant them this permit, spouses or children may be deported, contravening the constitution and relevant human rights agreements.
- Taking effective measures to limit early and forced marriages. The state must carry out campaigns to raise awareness on the negative consequences of early marriage in cooperation with civil society organizations
- Taking measures to ensure the enforcement of legislation that upholds a child's right to be heard in any judicial cases related to him, including regulations and/or procedures to ensure that social workers and courts comply with this principle.

⁷ The national campaign to promote rights of Jordanian women (My mother is Jordanian and her nationality is my right). 2016. Available on the following link:
[<https://wafajordan.wordpress.com/category/%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/>]