



Human Rights Watch Submission to the CEDAW Committee of Jordan's Periodic Report, 66th Session

January 2017

We write in advance of the 66th Session of the Committee on the Elimination of Discrimination against Women and its review of Jordan's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission addresses articles 1, 2, 3, 9, 11, 15, and 16 of the Convention.

This submission is based on information contained in Human Rights Watch publications and media reports.

1. Right to Pass Nationality to Children and Treatment of Non-Citizen Children of Jordanian Women (CEDAW articles 1, 9, and 11)

In 2012 the Committee urged Jordan to ensure “equality between women and men with regard to the acquisition, change and retention of nationality and to enable Jordanian women to pass their nationality to their foreign spouses and their mutual children.”¹ Despite this, Jordan's nationality law still does not allow Jordanian women married to non-Jordanian spouses to pass on their nationality to their spouses and children. Jordanian men, on the other hand, automatically confer nationality to their children, and their foreign spouses can apply for citizenship.² Children of Jordanian women whose fathers do not hold Jordanian citizenship are considered foreigners by Jordanian government agencies, and therefore many are required to obtain residency and work permits to legally reside in the country. Non-citizen children of Jordanian women have historically faced significant

¹ UN Committee on the Elimination of Discrimination against Women, “Concluding observations of the Committee on the Elimination of Discrimination against Women, Jordan,” CEDAW/C/JOR/CO/5, March 23, 2012, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fJOR%2fCO%2f5&Lang=en, para. 34.

² Jordanian Nationality Law, art. 9.

obstacles obtaining professional employment, obtaining healthcare at subsidized prices, accessing public education, owning property, or obtaining drivers' licenses, and they are forced to pay higher prices than Jordanians to obtain a public university education.³

In late 2014, Jordan's prime minister announced that non-citizen children of Jordanian women whose mothers have resided in the country for a minimum of five years would be entitled to special "privileges" or benefits. These privileges include free education and access to health services in government institutions at lower prices, as well as provision of special Jordanian ID cards and drivers' licenses. They also allow non-citizen children to own property and obtain professional employment in sectors reserved only for Jordanian citizens if no Jordanian applies for the position.⁴ While falling short of full citizenship rights, the announcement was a positive step forward in helping non-citizen children of Jordanian women address the problems they face in Jordan.

Despite the 2014 announcement, the cabinet decision regarding privileges was never published in the official gazette, and Jordan's civil status office did not distribute any special ID cards for non-citizen children of Jordanian women until March 2016, apparently in response to protests by groups of non-citizen children of Jordanian women in front of the Prime Ministry building. By March 2016, Jordanian authorities distributed at least 56,000 special ID cards to non-citizen children of Jordanian women.⁵

However, based on interviews with 15 non-citizen children of Jordanian women as well as their parents conducted by Human Rights Watch between July and September 2016, it appears that officials have not followed through on many of these announced privileges other than subsidized healthcare, which all interviewees agreed the Ministry of Health has implemented. Witnesses complained most frequently about work permit requirements, employment, and an inability to obtain drivers licenses.

³Elizabeth Whitman, "Jordan's Second Class Citizens," Boston Review, October 4, 2013, <http://bostonreview.net/world/whitman-jordan-citizenship> (accessed January 18, 2017).

⁴"Gov't announces privileges for children of Jordanian women married to foreigners," Jordan Times, November 9, 2014, <http://www.vista.sahafi.jo/art.php?id=65dcc35987d5f466ab6bb9721209876600ea8f7a> (accessed January 18, 2017).

⁵"Special ID cards to be issued for children of Jordanian women married to foreigners," Jordan Times, March 27, 2016, <http://static.jordantimes.com/news/local/special-id-cards-be-issued-children-jordanian-women-married-foreigners> (accessed January 18, 2017).

All 15 people told Human Rights Watch that non-citizen children of Jordanian women must obtain approval from Jordan's General Intelligence Directorate (GID), the country's intelligence service, to obtain one-year drivers licenses, but that in practice the GID only granted approval in narrow cases unconnected with an individual's status as the child of a Jordanian mother.⁶

Interviewees also reported difficulties obtaining professional employment. One woman, for example, whose father is Syrian and mother is Jordanian, told Human Rights Watch that she graduated with a degree in pharmacy but was denied membership in the pharmacists' syndicate because she is not a citizen of Jordan, even though this membership is necessary to become a pharmacist. Therefore, despite the promise of professional employment in closed sectors if no Jordanian applicant is available, in practice non-citizen children of Jordanian women cannot join these fields if they are denied membership in relevant professional syndicates.⁷

By depriving Jordanian women married to foreign nationals the right to pass nationality to their children on an equal basis to Jordanian men, Jordan is discriminating against women in breach of its CEDAW obligations.

2. Violence Against Women (CEDAW articles 1, 2, 3, and 16)

a. Inadequate Protection from Domestic Violence and Sexual Violence

According to a 2012 government survey, one in three women in Jordan has been a victim of physical violence at least once since the age of 15, and one in ten women has experienced sexual violence.⁸ The study found that less than two percent of women victims of physical and sexual violence would seek help from the police.⁹ A 2015 UN Women's study found

⁶ Human Rights Watch interviews with non-citizen children of Jordanian women, Amman, July-September 2016.

⁷ Human Rights Watch interviews with non-citizen daughter of Jordanian woman, Amman, July 27, 2016.

⁸ "Jordan Population and Family Health Survey, 2012", Department of Statistics, Amman, Jordan and ICF International, Calverton, Maryland, USA, October 2013, <http://dhsprogram.com/pubs/pdf/FR282/FR282.pdf>

⁹ *Ibid.*, p. 214.

that “there are gaps in procedures and legislation that are hindering women’s realization of protection from violence against women.”¹⁰

In 2008, Jordan adopted the “Protection from Family Violence Law,” which grants authorities the power to issue protection orders against perpetrators of domestic abuse and detain them.

The law has major gaps, however, including the lack of a definition of domestic violence or violence against women and restriction of its application to “family members” living in the “family home,” even though perpetrators of domestic violence such as ex-husbands or brothers may reside elsewhere. In addition, the law states that domestic violence cases should first be referred to “family reconciliation committees” before any protective measures can be taken or the case referred to the judiciary, leaving victims without protection, and the law does not state any procedures for investigation and prosecution. The law also grants the Public Security Directorate (PSD)’s Family Protection Unit (which is under the Ministry of Interior), rather than a prosecutor or judge, the authority to halt prosecution of domestic violence suspects if a settlement is reached by a reconciliation committee.¹¹

Jordanian authorities circulated a draft overhaul of the Protection from Family Violence Law in early 2016 that addresses some of these shortcomings. It proposes a definition of domestic violence as “crimes perpetrated by a member of the family against any other family member” but fails to include the elements of physical, sexual, psychological, and economic violence. It also expands the definition of “family members” to include: husband or wife; relatives up to the third degree; in-laws up to the second degree; other relatives who live in the family home; or a child in the custody of a family member. However, it still does not include former spouses or intimate partners who are not married to each other.¹²

¹⁰ UN Women, “Strengthening the Jordanian Justice Sector’s Response to Cases of Violence against Women,” August 2015, <http://jordan.unwomen.org/en/digital-library/publications/2016/2/strengthening-the-jordanian-justice> (accessed January 18, 2017).s

¹¹ Family Protection Law No. 6 of 2008, arts. 2, 6, 7, 12.

¹² Draft Family Protection Law Amendments, arts. 2, 3.

The bill also does not include penalties for the crime(s) of domestic violence, and as such it is left to other laws such as the Penal Code, whereby prosecutors will mostly deal with physical assault.

The bill also removes some positive provisions in the current law. The Protection from Family Violence Law obligates law enforcement authorities to go to places where domestic violence is reported to be taking place or about to take place, or where a protection order has been breached.¹³ The draft law however, makes no mention of the role of the police.

Although the amendments abolish “family reconciliation committees,” they still require that domestic violence “disputes” are settled through a settlement process, only requiring that this is done by the PSD’s family protection unit instead. The family protection unit can only pursue negotiated settlements in minor offenses, while serious crimes must be referred to the judiciary. This is still highly problematic, as domestic violence cases are often deemed to constitute minor offenses and as such, the vast majority of survivors will be forced to undergo a mediation process rather than being provided with the protection and justice they need.

As of January 2017 the amendments were awaiting parliamentary approval.

Jordanian penal code article 308 provides an exemption from investigation and prosecution for persons accused of rape and other sexual assault who agree to marry their victims for at least five years. In mid-2015 Jordanian authorities introduced proposed penal code amendments that would end this exemption, but would leave the exemption in place for those – in practice, men – who are accused of consensual sex with a child over 15 years old if they marry the child.¹⁴

Exempting adults from prosecution for consensual sex with children over 15 if they marry the child not only contravenes Jordanian laws that set 18 as the legal minimum age for marriage but opens children, particularly girls, to the risk of facing substantial pressure to marry. This limits their ability to make a full, free, and informed choice. The proposed

¹³ Article 9, Family Protection Law No. 6 of 2008.

¹⁴ “Jordan: Strengthen Penal Code Overhaul,” Human Rights Watch news release, September 13, 2015, <https://www.hrw.org/news/2015/09/13/jordan-strengthen-penal-code-overhaul>.

amendments also fail to criminalize marital rape as they contain no proposal to change the current penal code's sexual assault provisions which exclude marital rape: "[a]ny person who has forced sexual intercourse with a female, other than his wife..." The current penal code also fails to criminalize the non-consensual violation of physical integrity.¹⁵

As of January 2017 the penal code amendments were awaiting parliamentary approval.

b. "Honor" Killings

The killing of women and girls, usually in the name of "family honor," more than doubled in the first ten months of 2016 to 26 victims, up from 17 people killed during the same period in 2015, according to a local women's rights organization. In October 2016 alone, five women and one man were killed.¹⁶

Despite various reform attempts, the Jordanian penal code continues to maintain provisions that allow the judiciary to reduce penalties in "honor" crime cases. Article 340 of the Penal Code, while amended in 2001 from a full exemption, still provides a reduction in penalty for cases where a man kills or attacks his wife or any of his female relatives in the alleged act of committing adultery or in an "unlawful bed."¹⁷

Most cases do not meet the criteria for article 340, and as such this is often not invoked by courts. Rather, perpetrators often receive reduced sentences under a combination of families pardoning perpetrators and article 98 that allows for reduced sentences for crimes committed in a 'fit of fury.' Article 98 of the penal code mandates a reduction of penalty for a perpetrator (of either gender) who commits a crime in a "state of great fury [or 'fit of fury'] resulting from an unlawful and dangerous act on the part of the victim." It does not require *in flagrante* discovery or any other standard of evidence of female indiscretion. In cases of premeditated murder, article 98 provides that the penalty be reduced to a minimum of one year in prison. Moreover, in cases of murder, the victim's family can "waive" its right to file

¹⁵ "Jordan: Strengthen Penal Code Overhaul," Human Rights Watch news release, September 13, 2015, <https://www.hrw.org/news/2015/09/13/jordan-strengthen-penal-code-overhaul>.

¹⁶ Sisterhood is Global Institute (SIGI) Jordan, "Jordan: The Times Has Come for Criminal Legislation that Protects Women and Girls from Murder," <http://sigi-jordan.org/ar/?p=2395> (accessed January 18, 2017).

¹⁷ Penal Code, art. 340.

a complaint of the crime. Given members of the victim's family are very often complicit in "honor killings," the family often "waives" the right to file a complaint.¹⁸

3. Migrant Domestic Workers (CEDAW Articles 1, 2, 11, and 15)

Nearly 80,000 Indonesians, Sri Lankans, and Filipinas – almost all women – work as domestic workers in Jordan. Many of these workers enjoy good working conditions while others do not.

According to Human Rights Watch research, many migrant domestic workers in Jordan face systematic abuse. This results from a recruitment system in which employers and recruitment agencies disempower workers through deceit, debt, and blocking information about rights and means of redress; and a work environment that isolates the worker and engenders dependency on employers and recruitment agencies under laws that penalize escape. Jordanian law contains provisions and omissions that facilitate mistreatment, while officials foster impunity by failing to hold employers and agencies to account when they violate labor protections or commit crimes, and belittling or ignoring a disturbing pattern of abuse.¹⁹

Such instances of deception and exploitation – especially when combined with labor and physical abuses within a legal and practical environment that punishes escape – may in some cases amount to forced labor under international law, which defines this as work extracted involuntarily under the menace of penalty.

Human Rights Watch has documented employers and recruitment agents beating domestic workers, locking them inside the house around the clock, depriving them of food, and denying them medical care. Employers generally required workers to work more than 16, and sometimes up to 20 hours a day, seven days a week. The most common complaint that local aid organizations and countries-of-origin embassies received involved non-payment of salaries. Domestic workers often had no privacy, sleeping on balconies and in

¹⁸Penal Code, art. 98.

¹⁹Human Rights Watch, "Domestic Plight: How Jordanian Laws, Officials, Employers, and Recruiters Fail Abused Migrant Domestic Workers," September 27, 2011, <https://www.hrw.org/report/2011/09/27/domestic-plight/how-jordanian-laws-officials-employers-and-recruiters-fail-abused>.

living rooms, kitchens, and corridors. Many employers also forced migrant domestic workers to work after their two-year contracts expired.²⁰

In some important respects, Jordan has led legislative reform for domestic workers in the Middle East and North Africa region; in 2003 it became the first regional country to use a unified standard contract for domestic workers and in 2008 finally included domestic workers under its labor law. In 2009, the government issued regulations specifying domestic worker rights, toughened regulations on recruitment agencies, and criminalized slavery, servitude, and forced labor for exploitation as part of a new law against human trafficking. In 2010, new agreements called for higher salaries for domestic workers of all nationalities to at least \$200 a month, and Jordan increased the number of labor inspectors responsible for enforcing domestic worker regulations. In 2015, Jordanian authorities introduced new regulations that granted the labor minister the authority to immediately close any domestic worker recruitment agencies that mistreated workers, initiated a hotline in five languages for domestic worker to receive labor complaints, and paved the way for the establishment of a government shelter for domestic workers.²¹

Migrant domestic workers may also find themselves tied to abusive employers, as they are only allowed to leave employment on certain conditions. The Unified Standard Contract specifies that the worker can legally cancel the contract without notice if she is not paid, if the employer failed to issue her the required permits, or the employer failed to pay the return ticket after at least two years of service.²² The employer remains responsible for all resulting obligations, including when a worker falls out of residency status after leaving employment for one of these three reasons. The law is silent, however, on what happens if the worker leaves for other abuses that violate Jordanian labor or criminal law, and consequently falls out of documented residency status (having no means to renew her status without legal employment).

²⁰ Ibid.

²¹ Human Rights Watch, "Domestic Plight: How Jordanian Laws, Officials, Employers, and Recruiters Fail Abused Migrant Domestic Workers," September 27, 2011, <https://www.hrw.org/report/2011/09/27/domestic-plight/how-jordanian-laws-officials-employers-and-recruiters-fail-abused>; "By-law endorsed to regulate domestic helper sector," Jordan Times, December 31, 2014, <http://www.jordantimes.com/news/local/law-endorsed-regulate-domestic-helper-sector> (accessed January 18, 2017).

²² Art. 9, Unified Standard Contract.

Human Rights Watch also found in 2011 that Labor Ministry officials rarely held employers and recruitment agencies to account when they violated labor protections, and criminal prosecutions for trafficking were few and far between. Moreover, Jordanian police sometimes detained escaped migrant domestic workers, in violation of Jordanian law, because employers had reported them to the police. Employers also filed frivolous charges of theft against workers who escaped, leading to immediate detention, prosecution, and possible deportation.²³

Jordan imposes fines of JOD1.5 (\$2.12) for each day a foreigner overstays his or her legal residency, but contradictions remain about who has to pay. Employers and recruitment agencies are often at fault for causing workers to fall out of legal residency status because they do not apply for the requisite residency permits or have them renewed each year, or by abusing workers who fall out of status if they run away. Such fines are often too high for migrant domestic workers to pay and act as an obstacle for workers to freely end their employment and return home, or seek redress for abuse suffered.

4. Recommendations

We encourage the Committee to make the following recommendations to the Jordanian government:

- Amend the Nationality Law so that Jordanian women can pass nationality to their children and spouse on the same basis as Jordanian men.
- Undertake a full review of the application of privileges for non-citizen children of Jordanian women and take steps to ensure that government agencies comply with the 2014 cabinet decision, and publish the decision in the Official Gazette so that the decision is publicly available.
- Strengthen the amendments in the draft 2016 Protection from Family Violence Law in line with UN guidelines on legislation on domestic violence in order to prevent domestic violence, protect survivors, and prosecute perpetrators. This should include: defining domestic violence to include physical, sexual, psychological, and economic violence; expanding the scope of individuals to include former spouses,

²³ Human Rights Watch, “Domestic Plight.”

cohabitating and non-cohabitating couples, and individuals in intimate relationships that are not married; establishing penalties for the crime(s) of domestic violence; setting out concrete duties of law enforcement to investigate and prosecute domestic violence; and amending provisions relating to the “settlement” of domestic violence “disputes,” instead providing mechanisms of redress for survivors.

- Collect and release statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between the victim and perpetrator.
- Promulgate the 2015 draft amendment to the Penal Code that removes the exemption from investigation and prosecution for persons accused of rape and other sexual assault who agree to marry their victims.
- Strengthen the 2015 draft amendments to the Penal Code so that they contain provisions criminalizing all consensual sex between adults and children as well as marital rape.
- Repeal in full article 340 of the penal code, and repeal provisions that allow families to drop charges for “honor” crimes. Provide explicit guidance to judges to refrain from apply article 98 “fit of fury,” or any other provisions on “extenuating circumstances” during sentencing in cases relating to gender-based violence or other breaches of so-called “honor.”
- Take steps to protect migrant domestic workers from abuse, including:
 - Ensure domestic workers appear in person to have their work permits issued, and that their passports and permits are, and remain, in their possession.
 - Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), and ratify the ILO Convention concerning decent work for domestic workers No. 189 (2011).
 - Initiate sustained, national public education efforts regarding humane treatment of domestic workers and requirements under law.

- Support the ability of domestic workers to form and join workers' associations and trade unions.
- Improve the capacity and training of labor inspectors to monitor employers and recruitment agencies, vigorously investigate labor violations including excessive working hours, lack of a day off, denial of health care, inadequate living quarters, food and other provisions, and impose fines to the full extent of the law.
- Include further amendments that allow for immediate termination in cases where employers violate the contract or national law by making the migrant domestic worker work excessively long hours, failing to provide a weekly day off, or making her work outside the habitual home.
- Stop accumulation of "overstayer" fines of domestic workers living in embassy shelters, and expedite exemptions from the payment of fines for migrant domestic workers who credibly allege abuse and allow them to leave the country.
- Allow migrant domestic workers to change employers at will, while retaining their residency status.
- Amend the penal code to include the crimes of forced labor, food deprivation, and denial of medical care.