



JORDAN

Submission to the Committee on the Rights of the Child

93rd Pre-Sessional Working Group, September 2022

NGO Report

Submitted By

The WORLD Policy Analysis Center

University of California, Los Angeles



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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the in advance of the 93rd Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following three areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Child Marriage**
- Special Protection Measures: **Children in Situations of Emergency (Detention based on Immigration Status)**

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states (150 in the case of detention based on immigration status) using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Jordan, and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that Jordan address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Jordan for having provisions in place, we hope the Committee will recommend that Jordan work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. General Principles: Equality and Non-Discrimination (Article 2)

Based on our review of full-text national constitutions, Jordan explicitly prohibits discrimination of persons based on race, language, or religion. However, some groups guaranteed equality in the Convention are not covered by this constitutional provision, including children facing discrimination based on sex, political opinion, national, ethnic, or social origin, property status, disability status, or birth status.

RECOMMENDED CONCLUDING OBSERVATION

We hope the Committee will:

- Recommend in its concluding observations that Jordan amend the constitution to add explicit guarantees of equality and non-discrimination regardless of sex, political opinion, national, ethnic, or social origin, property status, disability status, and birth status, consistent with CRC commitments. These guarantees could be added to Article 6 of the constitution, which already guarantees non-discrimination based on other personal characteristics and statuses.

2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and GC No. 4)

Based on our systematic review of legislation and country reports, Jordan generally sets 18 years as the minimum age of marriage, but children at least 16 years old can marry with approval from a judge. The 2018 Demographic and Health Surveys (DHS) found that among women 20-24 years old, approximately 10% had been married before the age of 18, demonstrating that child marriage remains common in Jordan.¹

¹ UNICEF Data Warehouse. <https://data.unicef.org/dv_index/>



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Jordan: Can Jordan outline the steps it is taking to prohibit the marriage of minors of any age?
 - If Jordan is unable to outline steps it is taking to prohibit the marriage of minors of any age, recommend in its concluding observations that Jordan amend the *Personal Status Law* to remove exceptions that allow children under the age of 18 to marry.
- In its list of issues, ask Jordan: Can Jordan outline the steps it is taking to implement and enforce the currently legislated legal minimum age of marriage?
 - If Jordan is unable to outline steps it is taking to implement the legal minimum age of marriage, recommend in its concluding observations that Jordan take concrete steps towards implementing the law and protecting all children under the age of 18 from early marriage, without exceptions.

3. [Special Protection Measures: Children in Situations of Emergency \(Detention based on Immigration Status\) \(Articles 9, 24, 28, 37\)](#)

Our review of legislation, regulations and decrees finds that the country's Law on Residence and Foreigners' Affairs **generally permits detention without constraints and without specifying ages**, and contains no provisions on places of detention or alternatives to detention.

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Jordan: given the absence of explicit legal provisions on detention of minor migrants and minor asylum-seekers in the Law on Residence and Foreigners' Affairs, can Jordan provide details on any specific steps it is taking to explicitly prohibit the detention of minor migrants and minor asylum-seekers?
 - If Jordan is not taking any specific steps to explicitly prohibit the detention of minor migrants and minor asylum-seekers, recommend that Jordan pass and implement legislation against minor detention.
- In its list of issues, ask Jordan: given the absence of explicit legal provisions on detention of minor migrants and minor asylum-seekers in the Law on Residence and Foreigners' Affairs, can Jordan provide:
 - details on the current rates of detention among minor migrants
 - details on the current rates of detention among minor asylum-seekers



DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

1. General Principles: Equality and Non-Discrimination (Article 2)

Article 2.1 of the Convention states that:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution took any approach to equality across the grounds listed in article 2.1 of the CRC by prohibiting discrimination based on each specific status, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

JORDAN'S CONSTITUTIONAL PROVISIONS: NEED TO STRENGTHEN CONSTITUTIONAL NON-DISCRIMINATION PROVISIONS

Based on our review of full-text national constitutions, Article 6 of Jordan's constitution explicitly prohibits discrimination of persons based on race, language, or religion.

Article 6:

1- Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language, or religion.

However, some groups guaranteed equality in the Convention are not covered by this constitutional provision, including children facing discrimination based on sex, political opinion, national, ethnic, or social origin, property status, disability status, or birth status.



2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and GC No. 4)

General Comment No. 4 (2003) states that:

The Committee strongly recommends that States parties review and, where necessary, reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys.

Child marriage has life-long health, educational, and economic consequences. For girls in particular, child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Convention, specifically the right to protection from violence (Article 19), the right to health (Article 24), the right to education (Article 28), and the right to protection from sexual exploitation and abuse (Article 34).

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization's NATLEX database, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBASE, and official country websites.

JORDAN'S LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN PROTECTIONS FROM CHILD MARRIAGE

Based on our systematic review of legislation and country reports, Article 10 of Jordan's 2019 *Personal Status Law* establishes 18 years as the minimum age of marriage **but allows children at least 16 years old to marry with approval from a judge.**

Personal Status Law No. (15) of 2019

المادة (10)

أ- يشترط في أهلية الزواج أن يكون الخاطب والمخطوبة عاقلين وأن يتم كل منهما ثمانين سنة شمسية من عمره.
ب. على الرغم مما ورد في الفقرة (أ) من هذه المادة يجوز للقاضي وبموافقة قاضي القضاة وبعد التحقق من توفر الرضا والاختيار أن يؤذن وفي حالات خاصة بزواج من بلغ السادسة عشرة سنة شمسية من عمره وفقاً لتعليمات يصدرها لهذه الغاية إذا كان في زواجه ضرورة تقتضيها المصلحة ويكتسب من تزوج وفق ذلك أهلية كاملة في كل ما له علاقة بالزواج والفرقة وأثارهما.



The 2018 Demographic and Health Surveys (DHS) found that among women 20-24 years old, approximately 10% had been married before the age of 18, demonstrating that child marriage remains common in Jordan.²

3. Special Protection Measures: Children in Situations of Emergency (Detention based on Immigration Status) (Articles 9, 24, 28, 37)

The detention of children based on immigration status violates the principle of the best interests of the child and infringes on core values outlined in the Convention, including the right to liberty (Article 37).

Moreover, as noted in the Committee's 2002 Report on the Rights of All Children in the Context of International Migration, migrant and asylum-seeking children may experience heightened vulnerabilities. For example, migrant children held in detention may face barriers to accessing fundamental services such as education (Article 28) and health services (Article 24).

Article 37.b. specifically states:

States Parties shall ensure that:

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

In General Comment No. 6, the Committee has specifically ruled that detention of minor migrants is not in accordance with the Convention.

61. In application of article 37 of the Convention and the principle of the best interests of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof.

For 150 UN member states, we systematically reviewed national-level immigration laws, regulations, ministerial decrees, and executive decrees related to asylum-seekers, refugees, and migrants. We identified and located relevant laws through the United Nations High Commissioner for Refugees (UNHCR) RefWorld catalog, the International Labour Organization's (ILO) NATLEX legislation database, and the Global Detention Project. For each country, we reviewed all identified legislation to determine whether countries prohibited or allowed the detention of accompanied and unaccompanied minors, and under what circumstances.

² UNICEF Data Warehouse. https://data.unicef.org/dv_index/



JORDAN'S LEGISLATIVE PROVISIONS: NO LEGAL PROVISIONS ON MINOR DETENTION FOUND

Our review of legislation, regulations and decrees finds that the country's Law on Residence and Foreigners' Affairs applies to asylum-seekers and migrants alike. **This law generally permits detention without constraints and without specifying ages**, and contains no further provisions on places of detention or alternatives to detention.

Law on Residence and Foreigners' Affairs, N. 24, 1973, amended to 2006

المادة 37

للوزير بتنسيب من المدير حق ابعاد الأجانب وله ان يأمر بتوقيف من تقرر ابعاده مؤقتاً حتى تتم اجراءات الابعاد ولا يسمح للأجنبي الذي سبق ابعاده بالعودة الى أراضي المملكة الا باذن خاص من الوزير.

BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES