

United Nations Universal Periodic Review of Jordan 31st - (2018 Third Cycle October - November) session of the UPR

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**Submission to Human Rights Council
United Nations Universal Periodic Review of Jordan
(Third Cycle October - November 2018) - 31st session of the UPR**

1. Legal Framework for Jordan's Commitments in the Field of Fighting Discrimination against Women and Reinforcing Transparency

A. International Commitments:

Jordan ratified many international agreements related to human rights, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of all Forms of Discrimination against Women. Although the Constitution does not stipulate the legal value of the international conventions, the Jordanian judiciary agreed that international conventions take precedence over domestic laws in the event of a conflict between them.¹

In this respect, article 25 of the Covenant stipulates the need for each citizen to have an equal opportunity to occupy public positions in his/her country. According to article 2, this right must be guaranteed without any form of discrimination, and the state must do what is necessary to implement this law by taking legislative arrangements and ensuring that there is an effective system for complaints. According to the General Comment number 25 of the Human Rights Committee² regarding this item, the rights of citizens and the opportunities available to assume positions in public service should be equal, and in order to guarantee these positions are equal, the criteria and procedures for the appointment and promotion process, as well as suspension from work and dismissal, must be objective and reasonable. Country reports must include a description of the terms and conditions for assuming public service positions, the procedures for the appointment and promotion processes and the judicial mechanisms or other review mechanisms that apply to these procedures. Furthermore, reports must indicate how the equality condition is fulfilled.

Based on the provisions of article 7 of the Convention on the Elimination of all Forms of Discrimination against Women, member countries must take all appropriate arrangements to eliminate discrimination against women in the country's political and public life. Specifically, they must guarantee women's right, which must be equal to that of men, to occupy public positions and perform all public functions at all government levels. The state must also make special arrangements to expedite actual equality between men and women, according to article 4. According to General Recommendation number 25 issued by the Committee on the Elimination

¹ See for example judgment number 3841 for the year 2014 - Court of Cassation - Rights, which stipulates that "international agreements concluded by countries take precedence over local laws of these countries, and such agreements take precedence in application even if its provisions contradict internal laws."

² The Human Rights Committee was established in accordance with the provisions of the International Covenant on Civil and Political Rights, and is responsible for implementing the provisions of the Covenant and the extent to which countries honor its items.

of all Forms of Discrimination against Women,³ the term "arrangements" indicates a large group of different tools, policies and other organizational practices and preferential treatment, including legislative, executive, and administrative tools, policies, and practices. It also includes appointment, employment, and promotion for target groups and setting numerical goals with deadlines for their achievement. The objective is to expedite the process of improving women's status to achieve their actual or objective equality with men and to create necessary structural, social, and cultural changes. The committee affirms that equality in the results is the logical synonym of actual or objective equality. These results may have a quantitative or qualitative feature, meaning that women enjoy their rights in various fields in approximately equal quantities as men and enjoy the same income levels and equality in making decisions at the same level of political influence.

As Jordan did not commit to implement the special temporary arrangements and restrict them to elected councils only, the committee recommended in its final recommendations regarding the sixth periodic report on Jordan in 2017 that the signatory state expands the scope of using the temporary special arrangements. This recommendation is in accordance with article 4 (1) of the Convention. The committee interpreted in its general recommendation number 25 that temporary special arrangements are to be used in all areas included in the convention where female representation is lacking or inappropriate. For this reason, the committee recommends the member country to set clear objectives and deadlines, to allocate sufficient resources to implement the strategies and impose shares, and make other preemptive arrangements that achieve actual equality between men and women in all areas.⁴

B. National Commitments

Article 22/2 of the Constitution stipulates that "appointment in public position, whether permanent or temporary in the state and affiliated administrations and municipalities shall be on the basis of qualifications and efficiency," meaning that the qualification and efficiency are the only two criteria in everything related to a public position, and there should be no other justification for appointment. Furthermore, honoring the constitutional text requires a means to verify that any appointment, promotion, and other issues are based on qualifications and efficiency.

C. National Legislation

The Civil Service Regulation number 82 for the year 2013 is considered the basic legislation that governs everything related to the public office. Article 45-A of this regulation stipulates that "*Incumbents of senior category's jobs shall be appointed and their services shall be terminated or be discharged by the decision of the Cabinet upon a recommendation made by the Prime Minister with respect to the first group, and upon a recommendation made by the competent Minister for the second group, provided that the Cabinet's decision on appointment must be coupled with the Royal Decree.*"

³ The Committee for the Elimination of all Forms of Discrimination against Women was established in accordance with the Convention on the Elimination of Discrimination against Women. It is responsible for studying the progress achieved in implementing this agreement by the member countries.

⁴ Paragraph 25.

It is understood from the above text that the Cabinet of Ministers enjoys an absolute discretion in the appointment process, and he is not required to indicate the reasons that justify this appointment. This understanding is affirmed by the Jordanian administrative judiciary, which interpreted that "the authority granted to the Cabinet of Ministers in accordance with article 45-A of the Civil Service Regulation for the year 2013 is an estimation authority and is only restricted by limiting its good use, and that it is not issued by personal or revengeful motives."⁵ Obviously, these matters are difficult to prove on the ground.

Returning to the Regulation on the Appointment System in Leadership Positions number 3 for the year 2013, which applies to applicants for leadership positions, we find that article 8 sets standards for comparing candidates to fill leadership positions. Article 10, however, excludes governors and ambassadors from the provisions of this regulation. Furthermore, in specific and limited cases required by necessity, and for positions of special nature, the Council of Ministers may appoint someone to the position, based on the direct recommendation of the relevant reference, without taking into consideration standards for comparing candidates for the position. The issue is restricted to the estimation authority of the public administration.

When reviewing the provisions of the Civil Service Regulation and the Regulation on the Appointment in Leadership Positions, we find that they did not take into consideration international obligations. To begin with, there is no item that requires special temporary arrangements to achieve actual equality for women. Also, the process of appointment in positions loses elements of transparency. Finally, some legal texts discriminate women, such as the text of article 25 of the Civil Service Regulation, which grants the family allowance to men only.

2. Other Challenges Limiting Women Access to Leadership Positions

A. Retirement Age

According to the Social Security Law and the Civil Service Regulation, the retirement age for men is 60 years while it is 55 for women. Hence, placing a woman on retirement at an age less than that of a man deprives her of the opportunity to advance in her position career, and wasting the opportunity for her to assume a leadership position (high positions).

B. Informal Culture

Many studies affirm the underpinnings of the unofficial culture. First, the unofficial culture is based on the idea that a woman's work is secondary, that she is incapable of undertaking the burdens of leadership positions because of her household duties, and that she lacks confidence in her ability to lead. Second, it is based on the idea that the distribution of work and duties is connected to prevailing stereotypes in society for men and women. The unofficial culture also assumes that other issues force decision makers to avoid selecting qualified women to assume leadership positions because the social outlook makes one suspicious of a woman's ability to participate in decision-making and undertaking responsibility. Therefore, women are excluded

⁵ See for example Judgment number 88 for the year 2015 - High Administrative Court.

and marginalized within the framework of habits and traditions without consulting them or informing them of available opportunities.⁶

Recommendations:

Based on the transcendence of constitutional foundations and the need to activate them on the ground, Rasheed (TI – JO) requests members of the U.N. Human Rights Council to urge and encourage the Government of Jordan to respect international commitments. Rasheed (TI – JO) also encourages Jordan to fulfill national interest based on the principles of integration, equality, justice, equity, and equal opportunity between sexes to achieve social justice and to take into consideration the following recommendations:

1. Amend the legislation related to public service jobs in a way that ensures equal opportunities for citizens to obtain public positions, particularly higher positions, by following transparent procedures; to activate the mechanism of complaints in all stages of appointment; and to commit the public administration to justify their decisions and not hide behind discretionary power in issuing their decisions, provided they include the following:
 - 1.1 Amend the regulations related to public service positions for the purpose of guaranteeing :
 - Transparent standards to assume leadership positions and ensure a balanced representation between sexes in committees and parties entrusted with selecting candidates to fill leadership positions.
 - Adoption of special temporary arrangements and a women quota in leadership positions similar to the women quota that was adopted in elected councils.
 - Amendment of article 8 of the Regulation on Appointment in Leadership Positions No. 3/2013 so that the ratio of female candidates for leadership positions is not less than 25%, or is similar to the representation of women in the relevant ministry or department, whichever is higher.
 - 1.2 Amend the Social Security Law and other laws related to civil and military retirement to standardize the retirement age for both men and women.
2. Adopt the appropriate measures to eliminate the unofficial culture manifestations which reinforce the idea that housework is menial and that women doubt their ability to lead and participate in decision-making and do not shoulder responsibility.
3. Set transparent policies and foundations according to foundations and merit, in a manner that guarantees observing differentiation based on qualifications and levels of excellence and that takes gender into consideration in higher and middle management positions.

⁶ See for example:

USAID Takamol, GENDER AUDITS OF SELECTED PUBLIC ORGANIZATIONS: An Overview of Findings, Jan 2018. IREX, identifying barriers for women in the workforce in Jordan, May 13, 2016 [<https://www.irex.org/success-story/identifying-barriers-women-workforce-jordan>]. United Nations Development Programme, Gender Equality and Women’s Empowerment in the Public Administration: Jordan Case Study, 2012, pp 40-42. [<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Women-s%20Empowerment/JordanFinal%20-%20HiRes.pdf>]

4. Set SMART objectives to increase the level of women representation in leadership positions.
5. Activate the recommendations of the Human Rights Committee and the Committee on the Elimination of Discrimination of against Women as related to this subject in honor of implementing Jordan's international commitments.
6. Establish databases about women and their qualifications to be used in appointing women in decision-making higher positions and consulting positions, to publish this data and distribute it to regional and international governments and private sector institutions and political parties, as well as other relevant authorities, in accordance with legislations protecting data.
7. Triggering the script of Article 96 of the civil service system, which was amended in 2017 by urging the Council of Ministers to issue instructions regarding the flexible time in government institutions.
8. Monitor and evaluate progress in the representation of women by systematically collecting, analyzing and disseminating quantitative and qualitative data on women and men at all levels in various decision-making positions in the public and private sectors.