

Part 1

I. Background

I.1 Human rights declaration

The 1948 Universal Declaration of Human Rights was an embodiment of a long and rich tradition of advocacy for natural rights. The English philosopher Thomas Hobbes (1588-1679) introduced the concept of natural rights in regard to rights of life and security. Towards the end of the seventeenth century, his compatriot John Locke developed the two major components of human rights heritage, advocating for the right of liberty and the right of property.

The Universal Declaration also drew on the ideas of other philosophers including Jean-Jacques Rousseau as well as on the principles and practices of both the French and the American Revolutions. Indeed, Article One of the Declaration echoed the famous slogan of the French Revolution: "liberty equality and fraternity". The article states: "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood."

The influence of the American Revolution and later the American Constitution on the spirit, phrases and institutional aspect of enforcement of rights was very strong indeed. (1) This influence is even more striking and evident in the International Covenant on Civil and Political Rights (1976).

However, the Declaration drew also on traditions related to social and economic rights which cannot easily be associated with the American Revolution or the American Constitution. These rights include "the right to a standard of living adequate for the health and well being of the individual and their family, including food, clothing, housing and medical care and necessary social services..." (Article 24). These rights are more tuned to the social model and the notion of a "welfare society", than to the American constitutional framework or the practice of the American state.

This comprehensive definition of rights has become a standard definition of UN declarations and conventions on human rights. Not surprisingly, the International Bill of Human Rights, includes, among other instruments, the International Covenant on Economic, Social and Cultural Rights as a major component of the Bill.

By any standard, the Declaration was, and still remains, an important benchmark for measuring human freedom and human progress. Yet, an examination of world history since the inception of the Declaration, reveals that there has always been an evident gap between the stated objectives of the Declaration on the one hand, and practice and reality on the other. The problem is primarily related to issues of enforcement.

The Declaration clearly lacks a mechanism for enforcing its declared principles. The International Covenant on Civil and Political Rights (1966:1976) represented an improvement but not a solution to the issue of implementation and enforcement. However, the Optional Protocol of the International Covenant on Civil and Political Rights (1976) provided such a mechanism. The Protocol created a mechanism to allow individuals who claim they have suffered from human rights abuse or violation to address the Human Rights Committee directly, to address that abuse. However, many countries have so far refused to accede to the Protocol, thereby preventing some citizens from directly addressing the Human Rights Committee.

It is not the intention of the UN that the human rights declarations and conventions should end the debate on human rights, but rather that they constitute instruments and points of reference for that debate. However, unless the issue of enforcement is adequately addressed, the great opportunity these declarations create for ensuring human dignity and rights will be lost unnecessarily.

1.2 Women and human rights declarations and conventions

Both the Declaration of Human Rights (1948) as well as the International Covenant on Civil and Political Rights (1966:1976) recognize and emphasize equality between men and women.

In its Preamble, the Declaration states: “Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women...” That emphasis was reinforced in Article 2, Paragraph 1 emphasizing the equal rights of men and women to form a family and to equal rights in marriage. Indeed, nothing in the Declaration indicates legitimacy for any form of discrimination between men and women or that there is any difference in the rights accorded to men and women.

A clearer and stronger emphasis on equality between men and women can be seen in the Covenant. “Rights,” states the Preamble of the Covenant, “derive from the inherent dignity of the human person”. The language of equality between men and women clearly leaves no room for interpretation of discrimination. Article 2, Paragraph 1 and Article 3 emphasize that equality, and prohibit any discrimination based on gender. Article 3 asserts: “the states party to the present covenant undertake to ensure the equal rights of men and women to all civil and political rights set forth in the present covenant”. Article 26 of the Covenant recognizes equality before the law and prohibits discrimination based on gender.

Both the Declaration and the Covenant recognize the equality of men and women and also prohibit discrimination against women. The question then arises why it was felt necessary to introduce and adopt an international instrument specifically dealing with women, namely, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979:1981). The Preamble to the CEDAW provides part of the reason, with the clause “... concerned, however, that despite these various instruments, extensive discrimination against women continues to exist...”



The gap between the stated principles and ideals expressed in conventions and reality in practice has always been a major concern, not least because it contributes to popular cynicism concerning the effectiveness of such international instruments. Even with good intentions, many declarations are diluted in the process of implementation so that they lose their original intentions. Some conventions and principles also face resistance at various levels of society, which eventually undermines the process of implementation. States which defend their positions on the basis of national sovereignty may be reluctant to implement such principles. As stated earlier, many countries have so far refused to adhere to the Optional Protocol to both the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (1999:2000). As a result, CEDAW, like other instruments of human rights, may continue to face the problem of weak implementation.

Major Points of CEDAW:

CEDAW, in line with other international instruments on human rights, defines the rights of women comprehensively to include economic, social, cultural, civil and political rights. The articles of CEDAW emphasize these rights, consider how best can they be achieved and prohibit discrimination against women in all these fields.

A major contribution of CEDAW is its recognition of the structural factors which need to be addressed if women's rights are to be respected and their potential is to be realized. Two clauses from the Preamble illustrate the point:

"Convinced that the establishment of the new international economic order based on equality and justice will contribute significantly towards the promotion of equality between men and women ..."

"Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women..."

These statements emphasize the need to address the socio-economic as well as the cultural structures of societies in order for true equality to be achieved. For principles to be implemented, the structure of society has to be hospitable. Considering that this is a long term goal rather than a short term objective, particular emphasis is placed on education as a goal as well as an instrument for change.⁽²⁾

Finally, the Convention endorsed positive discrimination / affirmative action as a way of addressing women's historical grievances and of reversing the long-held discrimination and prejudice against women. From the Convention's point of view, this is not in conflict with the fundamental principle of equality between men and women.⁽³⁾

II. Women and power: The case of Jordan

Introduction:

The main goal of CEDAW is to create the conditions under which women can exercise their right to fulfill their utmost potential as individual human beings. Women's self-fulfillment not only contributes to the well-being of women, but it also benefits society as a whole. No society can achieve sustainable human development without the full and fair utilization of women's potential contribution.

In Jordan, there have been considerable achievements in terms of improvements in women's status, yet more still needs to be done. In this section, key indicators related to the status of women are provided including their demographic profile and their economic, educational, health, family and legal status. The political status is examined in the following chapters. It is to be noted that the literature on the status of women in Jordan is very rich and not all issues can be dealt with here; for more detailed analysis and statistics, end notes and references are provided.⁽⁴⁾

Demographic data for 2002 reveals that women constitute 47.7% of Jordan's total estimated population of 5,329,000; there are 91.2 females to every 100 males of the population. Various reasons are given for this disparity, including patterns of migration and gender differences in mortality rate. The disparity is not constant for all age groups; for the age group 30 - 35, for example, the female population outnumbers the male population. For the purposes of this report, which does not rely on detailed analysis of data, it is assumed that women constitute half the population (48:52).

II.1 Economic empowerment

In terms of economic empowerment, the data indicates that there is a significant disparity between the status of men and women. Two key indicators are used to analyze economic empowerment: the crude activity rate and the refined activity rate.

The crude activity rate representing the percentage of economically active members of society (15+ years old), is calculated by dividing the total number of the active population by the total population.⁽⁶⁾ In 2002, the female crude economic rate was 7.7% compared to the male crude economic rate of 39.7%.

The refined activity rate, relating the actual workforce to the number of potential candidates for entering the work force, is considered to be a more accurate representation than the crude activity rate.⁽⁷⁾ Using this indicator, women are increasingly active in the labour force; in the period between 1979 and 2002, the female refined activity rate doubled from 6.7% to 12.3%. In 2002, the refined activity rate for females was 12.3% compared to 64.2% for males.

Both of the above indicators reveal under-utilization of women in Jordan's economic development. Other major indicators such as the unequal distribution of property, inequality of opportunity, high level of unemployment and wage discrepancy (unequal pay) confirm this conclusion.

Women are not reaching their full potential for economic activity. This not only deprives the nation of valuable resources which could be harnessed towards development, but also deprives women of the opportunity to have direct access to income, through which they can gain more economic and social empowerment.

Property represents both capital and a means of production. Consequently, any major disparity in property ownership is likely to have a marked effect on the whole notion of empowerment. Those with little or no property at all are certainly at a disadvantage. In Jordan, women as a group are significantly dispossessed in terms of property ownership. Males constitute the majority of Jordan's land and real estate holders: 89.6% compared to just 10.4% females. The situation for agricultural holders is similar, with females representing only 2.7%. Women own only a minor proportion of livestock and poultry holdings.⁽⁸⁾

In terms of employment opportunity, women are also at a disadvantage. In 2002, the unemployment rate among the male population (15+ years) was 14%, while the female unemployment rate was 22%. It is worth noting that level of education has no positive correlation in terms of reducing the gender unemployment gap. To the contrary, the gender gap in respect of educational level and unemployment has increased from -7.9% overall to -10.1% with the parity index moving from 0.64 to 2.0.⁽⁹⁾

The wage gap between men and women is also evident and occurs in both the private and public sectors of the economy. In 2001, the gender wage index in the public sector was 39.0 and in the private sector 38.0.⁽¹⁰⁾

II.2 Educational status of women

By any standards, in the education sector Jordan has made remarkable achievements in terms of the creation of equal opportunities for girls and women. In 2001, Jordan ranked the highest among all Arab countries in terms of the educational component of the human development indicator.⁽¹¹⁾ In 2002, female students comprised 49% of the total number of 1,436,484 students at school level. Moreover, in that year the level of female enrollment at primary, secondary and higher levels exceeded the level for their male counterparts. There were 760,000 female students enrolled compared to 720,000 male students - a gender gap of 5% in favour of females.⁽¹²⁾

To a certain extent, the high level of female educational enrollment is a result of government strategies to remove gender barriers to the education of girls. Central to this strategy has been the employment of female teachers. This also provides opportunity for employment for women and creates potential role models for economic and social empowerment. In 2003, among teachers employed in the education sector, the proportion of female employees was significantly higher than that of the active labour force. In 2003, at basic school level the ratio of female to male teachers was 178:100, and at secondary level the ratio was 105:100.⁽¹³⁾

Despite these remarkable achievements, certain disparities between men and women still persist in the education sector. In public universities, females constitute 57% of total student numbers, but only 12% of staff.⁽¹⁵⁾ Of the combined total for both public and private universities, women only represent 18% of the academic staff.⁽¹⁶⁾

Educational achievement is considered to be successful when it translates into economic and political empowerment. In Jordan, this process has yet to be fully realized. Educational level is associated positively with increased female economic activity rate but without a corresponding increase in the rate of economic opportunities for women (i.e. unemployment disparity). Politically, as will be shown, women are still largely excluded from formal political processes. Gains in educational opportunity for women have yet to be translated into gains in political empowerment.

II.3 Status of women: Health sector

In their report, “Progress of Arab Women” (2004), UNIFEM notes that “health as a capability extends beyond escaping mortality and diseases to encompass aspects of physical, mental, and social well-being.” The call is for a “social health model” as well as a broader physical health approach that includes a larger set of health conditions and allows measurement of discomfort, dissatisfaction, and perceived ill-health.⁽¹⁷⁾ This is certainly meaningful and called for as an approach. Unfortunately, in this very brief section, it is only possible to assess the state of women’s health in Jordan through an examination of key indicators rather than to provide a comprehensive analysis of women’s health and well-being.

An examination of the health status of women in Jordan reveals a paradox. Average life expectancy at birth is higher for women than for men, (72.4 years compared to 70.6 years).⁽¹⁸⁾ The infant mortality rate is 10.9 % lower for females than for males.⁽¹⁹⁾ Yet, in spite of this, the overall ratio of females to males in the population (48:52) is skewed towards the males. As noted, there are health-related factors which affect the gender population balance.

First, the high rate of maternal mortality reduces life expectancy for females when they reach child-bearing age.⁽²⁰⁾ Over recent years, Jordan has made significant progress in this respect, reducing maternal mortality to 41 per 100,000 live births.

By itself, however, the maternal mortality rate does not explain the paradox. Another explanation was put forward by UNDP’s Arab Human Development Report 2004. Drawing on World Health Organization estimates, the Report argues that the disparity is partly a result of years of life expectancy lost to disease. Women in Jordan lose approximately 11.5 years to disease compared with 8.5 years in the case of men.⁽²²⁾ Other analysts argue that violence against women may also be a contributory factor.⁽²³⁾

These limitations in terms of women's health status should not obscure the impressive achievements in health development which benefit both the male and female population. Almost the entire population have access to the public goods and services that underpin health and well-being. Recent surveys indicate that 98% of Jordan's population have access to clean water, 99% of pregnant women, 98% of deliveries and 99% of infants are attended by trained personnel.⁽²⁶⁾

II.4 Women and the family in Jordan

This section provides a brief introduction to women and the family and considers such issues as female-headed households, women and decision-making within the family unit, women and divorce, and women as victims of violence in the family. In conclusion, the question of whether the family still constitutes a "welfare unit" is raised.

The average size of a Jordanian household decreased from 6.7 persons in 1979 to 5.7 persons in 2002.⁽²⁷⁾ Despite this decline, the average Jordanian family still remains relatively large. This average does not reflect the variations in family size between Jordanian governorates.⁽⁸⁾

There is a growing number of women taking on additional roles and responsibilities for ensuring the running of the home and the well-being of family members. This is reflected in a significant increase in the number of female-headed households, rising from 9% to 13% between 1979 and 2002, an increase of 43%.⁽²⁹⁾ This increase has been attributed to a combination of factors including a rise in the level of divorce.

In percentage terms, the divorce rate increased only slightly from 17.5% of total marriages in 1979 to 18.1% in 2002. But using the crude divorce rate (the number of divorces in a certain year per 1,000 of the population) there was an increase from 1.2% in 1980 to 1.7% in 2001. This represents an increase of 42%. In terms of the number of divorces, the increase was from 2,729 in 1980 to 9,017 in 2001 - an increase of 330%.⁽³¹⁾

The increase in the number of divorces has far-reaching implications for divorced women as the head of the family. It raises the issue of the burden of divorce on women and their families, which require understanding and also the allocation of resources needed to maintain the right of divorced women and their children to be treated with dignity.

More recently, there has been a rise also in the number of *de facto* female-headed households due to increased migration by men in search of employment. In many cases, this leaves the woman having to take full responsibility for the welfare of the family, without the rights of a divorced or widowed women. There has also been a slight increase in the proportion of one-person, female-headed households.⁽³⁰⁾ If these trends continue, the issue of female-headed households will inevitably become more prominent on the agenda of organizations promoting women's empowerment.

A disturbing manifestation of the abuse of rights is the phenomenon of violence within the family. Women and children are usually the target of such violence and abuse. It is very difficult to make an accurate assessment of the extent of violence within the family in Jordan. It is only recently that such issues have been discussed in public, or that service providers have been able to respond to the needs of victims of family violence. As a result, there are still few reliable mechanisms in place to collect data at the national level.

Data collected through field research at the local level may be more reliable, although it cannot be assumed that findings are applicable across the whole country. One study undertaken in 2002 reports that 7-14% of women in Ma'an governorate said they had suffered some form of abuse.⁽³²⁾ Another study covering Amman, Madaba and Balqa'a refugee camp reports the number of women who contacted a hotline service on abuse was 6,115⁽³³⁾. However this tells us nothing about the "silent majority" of women who, for a range of social and economic factors feel unable to raise the issue. Nor does it reflect the substantial number of women who do speak out against this violence but simply are not listened to, or are pressured by others to be silent.

Women's influence on decisions concerning expenditure within the family is used as an indicator of women's empowerment. In 1979, 37% of women decided how to spend their earnings. By 2002 the figure had reached 48%.⁽³⁵⁾ This appears to reflect an increase in women's empowerment.

The family is generally assumed to offer its members affection and an appropriate environment for achieving personal and psychological balance. The family is also assumed to be a unit of burden-sharing, but not necessarily an equal one. More recently, questions are being raised whether the family really does constitute "a welfare unit" for women, a guard against change of fortune and a mechanism for protection in old age. The 2004 Report on Progress of Arab Women believed not. The report's skepticism is based on two observations: first, that many families do not have the means to meet women's welfare needs; secondly, and perhaps more disturbing, was the observation that even when families have the resources they are often unwilling to meet such needs.⁽³⁶⁾

II-5 Women and legal status in Jordan

Jordan has signed and ratified all the major instruments of human rights which are designed to ensure legal equality between men and women, and which also prohibit any form of discrimination against women. These instruments include the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights (both ratified in 1975) and the Convention on the Elimination of All Forms of Discrimination Against Women, which Jordan ratified in 1992.

It must be noted that there is nothing in the Jordan Constitution (1952) that explicitly discriminates against women. There is, however, a demand by women advocates that Article 6 of the constitution be amended to include an explicit prohibition of discrimination based on gender.⁽³⁷⁾ Article 6 Paragraph 1 states "Jordanians are equal before the law. No discrimination [is permissible] between rights and duties [on ground] of race, language and religion." No reference to gender is made.

Jordan, however, has yet to accede to and ratify the Optional Protocol to the International Covenant on Civil and Political Rights (1966:14976), and the Second Optional Protocol which aims to prohibit the death sentence (1989). Neither is Jordan a signatory to Optional Protocol to the Convention on the Elimination of Discrimination against Women (2000). This optional protocol creates a mechanism through which individual women can directly address the Special Committee responsible for overseeing the implementation of the Convention.

Jordan has a Personal Status Law (1976), which is based on Islamic *sharia* law. Thus the principles which guide the law or the spirit of the law are not always compatible with the principle of equality as practiced in many western nations nor with principles of international conventions, most notably that of CEDAW, to which Jordan adheres. In the last few years Jordan has been keen to change and amend these laws to meet the requirement of equality. However, there remain certain incompatibilities between the Personal Status Law and that of CEDAW.

A notable amendment to the Personal Status Law has been made to include the equal rights of both men and women aged 18 and over to enter into marriage without prior parental approval (Article 5, Temporary Law No.82, 2001). Women have also been given the equal right to divorce their husbands: in contrast to the previous law, no consent by the husband is now required. (Article 126, Paragraphs B and G, Temporary Amended Law).

Many sensitive and complex issues concerning the custody of children, inheritance, polygamy and many of the rights of the husband remain unresolved. According to the new amended Personal Status Law, there is an obligation that the wife or wives are notified by the court before a husband is able to enter into a new marriage contract.

The Jordan Citizenship Law (1954) is also controversial in terms of the issue of equality between men and women. Article 3 of the Jordanian Nationality Laws defines a Jordanian as a person "who was born to a father with Jordanian nationality". Article 9 reaffirms the same principle. According to the law, it is the exception rather than the rule which allows Jordanian women the right to give their children Jordanian nationality.

In Jordan, the penal law is a source of debate, particularly in its treatment of what is called "honour killing". According to the amended version to Article 340 of the Penal Code (Temporary Law, No.86, 2001) "honour crime" is no longer considered to be justified. However, those accused of homicides perceived as "honor killing" continue to benefit from mitigating circumstances by invoking Articles 97 and 98 of the Penal Law.