

The Status of Legal Empowerment in Jordan

**Evidence to support the post-2015 development
agenda**



The Status of Legal Empowerment in Jordan:

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Report Author: WANA Institute

Cover photograph: Alaa Al Shukni

Cover design: Julia O'Brien

WANA Institute

Majlis El Hassan, Royal Palaces

Amman, Jordan

www.wanainstitute.org

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1. Background and development challenges

The Hashemite Kingdom of Jordan (hereafter Jordan) has a population of approximately 6.5 million people. Ethnically, the country is predominantly Arab (98 per cent), with minority Circassian and Armenian communities. Religious following in Jordan is mainly of the *sunni* Islamic denomination; however, there are minority congregations of *shia* Muslims and Druze, and some 2.2 per cent of the population adhere to the Christian faith (of various denominations). Jordan has a high rate of urbanisation and the majority of the population lives in urban areas; roughly 70 per cent of the population is concentrated within 30 kilometres of the capital city, Amman.¹ Approximately 6 per cent of the population maintain nomadic or semi-nomadic lifestyles. More than 55 per cent of Jordan's population is under the age of 25; approximately 36 per cent of the population is aged 14 or under and over 20 per cent is aged 15-24; 35 per cent is aged between 25 and 54.²

Levels of primary and secondary school enrolment and attendance in Jordan are some of the highest in the Arab world, giving its youth population aged 15-24 impressive literacy rates of 99.1 per cent and 99.3 per cent among males and females respectively.³ Despite this, unemployment rates are high. The national unemployment rate is 12 per cent, but for 15-19 year-olds this increases to 36.8 per cent, and 30.8 per cent for 20-24 year-olds.⁴ Unemployment among the female population is almost double that of the male population.

Jordan is a medium income country and is ranked 95th (out of 187 countries) on the Human Development Index.⁵ In 2010 the absolute poverty rate was 14.4 per cent (defined as expenditure of JD366.3 per household per month) and the majority of impoverished households are located in urban areas. For example, the governorates with the highest levels of poverty are Amman, Irbid and Zarqa. Average monthly household expenditure for the poorest 20 per cent of households is JD423.4, compared with the national average of JD770.⁶

The poor face a range of obstacles accessing affordable and quality housing. Expenditure on housing, among the poorest 20 per cent of households, is JD79.4 per month (per household, excluding fuel, lighting, repairs, etc.) compared to the national average of JD137. An estimated 10 to 15 per cent of the population resides in informal settlements,⁷ and as many as 40 per cent of informal settlements in Amman lack formal legal tenure.⁸

Approximately 7 per cent of Jordan's labour force is engaged in agriculture, 22 per cent in the industrial sector and 71 per cent in the services sector, within which the public sector constitutes roughly one third of total employment. Within the public sector, public administration and defence are the main employers, representing approximately 20 per cent of total employment in 2011.⁹

Jordan enjoys rich supplies of certain minerals and its mining sector contributes to the country's Gross Domestic Product (GDP) through both the extractive and manufacturing industries. Phosphate and potash are two of Jordan's largest exports. The mining sector additionally contributes resources needed for the manufacture of certain goods, such as fertilisers and ceramics.¹⁰ Jordan also has significant reserves of oil shale, which the government hopes to exploit as part of a wider energy diversification strategy. In contrast with this, Jordan suffers from scarcity in important natural resources such as water and sources of energy.

Jordan is a constitutional monarchy with a bicameral national assembly, which is composed of the Senate (upper house) and the Chamber of Deputies (lower house). Significant executive power is invested in the King, Abdullah II.

¹ Jordan is divided in 12 *muhafathat* (governorates), each of which is further divided into districts (*liwa*) and sub-districts (*caza*). There are 52 districts in total. Each governorate is headed by a governor, appointed by the King. Each district is headed by a mayor, appointed by district council members. District councils are elected and serve four year terms. Large urban areas may have a slightly different structure, for instance Amman is governed by the Greater Amman Authority and has a greater level of independence than other areas.

² "The World Factbook; Middle East: Jordan", CIA, last modified June 20, 2014, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html> [accessed September 22, 2014].

³ "Jordan Statistics", UNICEF, last modified December 27, 2013, available at: http://www.unicef.org/infobycountry/jordan_statistics.html#117 [Accessed 17 September 2014].

⁴ "The Unemployment Rate During the Second Quarter of 2014" [Press Release], Department of Statistics, accessed September 17 2014, http://www.dos.gov.jo/dos_home_e/main/archive/Unemp/2014/Emp_2014-q2.pdf.

⁵ UNDP, "Human Development Report 2013 The Rise of the South: Human Progress in a Diverse World," 2013, <http://hdr.undp.org/en/reports/global/hdr2013/>.

⁶ "Jordan Poverty Reduction Strategy Final Report", UNDP, last modified January 1, 2013, accessed 22 September, 2014, http://www.undp-jordan.org/index.php?page_type=publications&press_id=207.

⁷ The WHO suggests a figure of 15% (686,000 people) in 2005, <http://apps.who.int/gho/data/node.main.282> while the 2013 Poverty Reduction Strategy Paper suggests the figure is less than 10% (of total housing stock).

⁸ Myriam Ababsa, "The Evolution of Upgrading Policies in Amman," in *Sustainable Architecture and Urban Development*, 2010, <http://halshs.archives-ouvertes.fr/halshs-00467593/>.

⁹ "Jordan Economic Insight", QNB, accessed September 16, 2014,

<http://www.qnb.com.qa/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1355496374351&ssbinary=true>.

¹⁰ European Commission (2012) 'Natural Resources Management: Policy and Regulatory Issues' available at:

http://ec.europa.eu/enterprise/policies/rawmaterials/files/docs/euromed_presentations/madanat_natural_resources_man_en.pdf.

For example, while the Chamber of Deputies ‘may approve, reject, or amend legislation proposed by the cabinet, [...] it cannot enact laws without the assent of the royally-appointed Senate. King Abdullah is empowered to dismiss parliament, as well as the prime minister and cabinet’.¹¹ However, since 2011 some of these powers have been subject to change. As protests ignited elsewhere in the Arab world, King Abdullah moved quickly to address demands for political and economic reform. In 2012 he introduced constitutional amendments, created a constitutional court, and, for the first time, allowed the cabinet to be nominated by parliament. Another important facet of King Abdullah’s approach was violence avoidance as a method of containing protests. This combination of reforms, restraint in dealing with the opposition, as well as dwindling popular appetite for protests in the face of the widespread violence among the Arab Spring countries, has maintained public loyalty to the royal family at high levels.¹²

Despite this, Jordan has not been able to escape the effects of unrest elsewhere in the region, with instability a major factor stifling development. The on-going crisis in Syria is a major source of such instability and, although Jordan has remained resilient, the presence of over a million¹³ Syrian refugees in the country is straining national resources. The burden of hosting so many refugees is not borne in full by UNHCR and the international community; Jordan has provided access to public services for urban-based refugees from Syria, at significant cost. In particular, Jordan’s water resources are being put under increased pressure. This, together with unemployment and IMF-mandated austerity measures, continue to be major issues among the Jordanian people.

Jordanian exports have been negatively impacted by the conflict in Syria and the chronic instability in Iraq since 2003. Syria and Iraq are key destination countries for Jordanian exports. However, it is not just the prospect of declining revenues from interrupted trade with its neighbours that poses concern. The Syrian conflict has meant that Jordan has lost access to important land routes to ports in the Mediterranean, forcing it to export industrial products via the more expensive Suez Canal.¹⁴ Similarly, due to a deterioration of security in the Sinai Peninsula in the wake of the Arab uprisings, Jordan’s supply of gas from Egypt has been repeatedly interrupted, forcing it to seek more expensive alternatives.

Many of Jordan’s most pressing development challenges are ones that have the potential to encourage greater regional integration. For example, one initiative to address water scarcity in Jordan is the Red Sea Dead Sea Water Conveyance (RSDSWC) project. This will involve a joint Israeli-Jordanian-Palestinian effort to pump water from the Red Sea to the Dead Sea – which is shrinking – and to provide a new source of clean, desalinated water. On the other hand, some development issues are more unilateral in nature. For instance, Jordanian women remain severely underrepresented in the parliament: in the 2013 general election women constituted 52 per cent of the electorate but represented just 13 per cent of all candidates.¹⁵ Thus, although normative influence may be applied by international organisations, such as the United Nations, the onus of responsibility for acting towards a fairer balance between genders is on domestic actors, such as the government and civil society organisations.

2. Judicial authority in Jordan

Jordan has a civil legal system influenced by the Ottoman and Napoleonic codes. Jordan’s Constitution (1952, amended) grounds the justice system in the pillars of judicial independence,¹⁶ free and open access to the courts, the innocence of an accused and public court hearings.¹⁷ Judicial authority is vested in three categories of courts: civil, religious and special jurisdictions courts,¹⁸ the operation of which is governed by specific laws.¹⁹ The highest court is the Court of Cassation (Supreme Court), followed by the Court of Appeal.

¹¹ http://www.freedomhouse.org/report/freedom-world/2014/jordan-0#.VB5_a_mSxqU. The Monarch appoints the Prime Minister and members of the Senate. Members of the House of Representatives are elected for four year terms through a system of proportional representation. The Prime Minister, in consultation with the Monarch, appoints a cabinet.

¹² Jordan did see protests in 2011 and 2012. Traditionally, protests have been led by the Muslim Brotherhood in Jordan, but for the first time they were joined by the HIRAK, a movement of mostly native “East Banker” Jordanians protesting economic austerity measures and government corruption. Although political reforms were the goal of some activists, these latter two issues mobilised thousands after Friday prayers.

¹³ UNHCR predicts that by December 2014 there will be 1.4 million Syrian refugees present in the country. See <http://www.unhcr.org/pages/49e486566.html>.

¹⁴ “Jordan’s Industrial Sector Shows Resilience”, Oxford Business Group, accessed September 16, 2014, http://www.oxfordbusinessgroup.com/economic_updates/jordan%E2%80%99s-industrial-sector-shows-resilience.

¹⁵ “Freedom in the World 2014; Jordan”, Freedom House, accessed September 21, 2014, <http://www.freedomhouse.org/report/freedom-world/2014/jordan-0#.VB7RNvmSxqU>.

¹⁶ Art 27 and 97.

¹⁷ Art 101: court decision – be it civil or criminal- should be publicly pronounced, except for very limited cases (when the court deems the confidentiality necessary to maintain the public order, or protect morale like in juvenile cases).

¹⁸ Art 99.

¹⁹ The establishment of the various courts and their categories, divisions, jurisdiction and administration shall be, by virtue of special laws (art 100).

2.1 Civil courts

Civil courts exercise jurisdiction over all matters, civil and criminal, including cases brought against or by the government, unless jurisdiction is vested elsewhere by the constitution or by law. The civil courts include Magistrate Courts, Courts of First Instance, Courts of Appeal, and the Court of Cassation. Magistrate Courts have jurisdiction over labour disputes²⁰ and act as juvenile courts.²¹ The civil courts also include the administrative judiciary,²² which operates at the levels of the Administrative Court of First Instance and the High Administrative Court.²³

2.2 Religious courts

There are two types of religious courts in Jordan, those governing Muslims and those governing non-Muslims. Shari'a Courts follow the Hanafi *madhhab* (school of jurisprudence). They comprise primary and appellate courts and have jurisdiction over family matters (marriage, divorce, inheritance and child custody), *al diyeh* (compensation paid to the family of a murdered or manslaughtered person) and Islamic *waqf* (religious endowment).²⁴ Non-Muslim Tribunals have jurisdiction over family matters related to non-Muslims. Christians in Jordan have different councils according to the different Christian's sects; these councils are principally governed by the Formation of Councils of Non-Muslim Religious Communities Law No. 22 of 1938.²⁵ In cases involving parties of different religions, civil courts have jurisdiction.²⁶

2.3 Special courts

Courts of special jurisdiction have been established according to laws defining their formation, jurisdiction and administration. There are two types of special jurisdiction courts:

- (a) Special courts whose judge or judges are civilians:
 - Income Tax Court of Appeal
 - Customs Court of First Instance and Customs Court of Appeal
 - Major Felonies Court
 - Land and Water Settlement Court
 - Municipal Court
 - Maintenance of State Property Court
- (b) Special courts whose judges comprise non-civilians or non-civilians and civilians:
 - State Security Court
 - Military Court
 - Police Court
 - Special Labour Court

These latter courts try both military personnel and civilians; jurisdiction includes offenses against the external and internal security of the state as well as drug-related and other offenses. Findings can be appealed to the High Court.

2.4 The Constitutional Court

In 2011, a Constitutional Court was established, at least in part in response to the Arab Spring protests.²⁷ This Court is considered an independent and separate judicial body, guaranteed by legal personality and financial and administrative independence.²⁸ The Court has the responsibility to oversee the constitutionality of applicable laws and regulations and to interpret the provisions of the Constitution.²⁹

²⁰ Art 137(a) Jordanian Labour Law No. 8 of 1996.

²¹ Jordan Juvenile Law No. 24 of 1968 and its amendments.

²² Constitutional Court Decision No.10 of 2013.

²³ Administrative Judicial Law No. 27 of 2014.

²⁴ Judges are educated at specific university faculties where they study Shari'a-Islamic Studies; they are not required to have law degrees.

²⁵ Similar religious courts/councils to the Shari'a court exist for members of minority religions including Greek Orthodox, Roman Catholic and Armenian Catholic, and have similar jurisdiction.

²⁶ Shari'a Procedural Law No. 31 of 1959 and its amendments and Family Law No. 36 of 2010. Note that religious courts are competent to adjudicate all cases related to Muslim personal status or in cases when one of the parties is non-Muslim but agrees to litigate before the religious court (Judicial Shari'a Execution Law no.11 of 2006).

²⁷ Constitutional Court Law No.15 of 2012.

²⁸ *Ibid* Art 3.

²⁹ *Ibid* Art 4.

2.5 Ombudsman

The Jordanian Ombudsman Bureau (JOB) was established in 2008,³⁰ in response to royal directives encouraging reform, enhanced transparency, integrity and accountability. It is a national monitoring institution that receives complaints from citizens against the public administration, or its employees. It is open to Jordanian and non-Jordanians; minors are able to submit complaints through their guardian or legal representative.³¹ The Bureau's specific mandate includes:

- to investigate complaints regarding decisions, recommendations, procedures or actions or omissions of the public administration or its employees, conditional upon all other judicial avenues having been exhausted;³²
- pursuant to complaints submitted regarding public administration procedures, to issue recommendations to simplify administrative procedures.³³

According to their 2011 annual report, the JOB has received 2,262 complaints, of which 1,420 were accepted (conditions for acceptance are articulated in law). In 197 cases, it was found that a mistake had been made the public administration, and in 147 cases the matter was resolved.

2.6 The National Centre for Human Rights

The National Centre for Human Rights was established in 2003 and is authorised to investigate abuses and violations and to follow up on findings with relevant executive, legislative or judicial authorities.³⁴ Under article 8, the Centre may request any information, data or statistics that it deems necessary for the achievement of its objectives from the relevant authorities, which are required to respond without delay. Under article 10, the Centre is entitled to visit detention centres, juvenile care homes or any public place in which human rights violations are reported to have taken place or be taking place. The centre is staffed by five lawyers, a sociologist and a social worker, as well as a network of 12 voluntary lawyers located throughout Jordan.

A main critique of the NCHR is that although it is supposed to enjoy financial and administrative independence, the majority of its resources are provided by the Government.³⁵ This has fuelled speculation on the independence of its activities, and particularly the rigor with which it approaches and investigates human rights violations. According to their 2013 annual report, the NCHR received 468 complaints (309 on civil and political rights, 151 on economic, social and cultural rights and 8 complaints on the rights of vulnerable groups). Only 72 complaints were resolved; 6 complaints were closed unsatisfactorily, 23 were found to fall outside of the NCHR's jurisdiction, in 57 complaints no violation was found, and 290 complaints were still under review. Key issues include the absence of an efficient legal mechanism to ensure the cooperation of parties to a dispute and staff shortages.

2.7 Alternative dispute resolution

The Arbitration Law No. 31 of 2001 applies to civil and commercial disputes between public or private law persons regardless of their legal relationship (i.e. contractual or non-contractual).³⁶ An arbitral tribunal is composed, by agreement between the parties, of one or more arbitrators. In the case of non-agreement, three arbitrators are selected.³⁷ Arbitral awards cannot be appealed and are enforceable at the Court of Appeal.³⁸

In response to wide acknowledgment of parties employing tactics to delay the settlement of disputes at court Law No. 12 of the year 2006 on the Mediation for Civil Disputes Resolution was introduced. This law applies during courts sessions and when all parties agree to resolve a dispute through mediation. The law established a judicial body, within the Court of First Instance, called the Mediation Department, composed of first instance and reconciliation judges. The Minister of Justice may also nominate retired judges, lawyers and professionals known for impartiality and honesty.³⁹ The law prescribes that mediation must be completed within a three-month period.⁴⁰

³⁰ Law No. 11 of 2008.

³¹ Ibid Art 12.

³² Ibid Art 12a.

³³ Ibid Art 12b.

³⁴ Art 5 National Centre for Human Rights Act (Act No. 51 of 2006).

³⁵ Ibid Art.3.

³⁶ Art 3 Arbitration Law No. 31 of 2001.

³⁷ Ibid Art 14.

³⁸ Ibid Art 52, 53(b), 54(b).

³⁹ Ibid Art 2.

⁴⁰ Ibid Art 7.

2.8 Tribal system

The Tribal Law and Tribal Courts Law in Jordan were abolished by law in 1976. Nevertheless, tribe is an essential element of the political, social and cultural structure of the Jordanian community, and the regulations of the tribal system are still respected as tribal customs, traditions and practices. This system operates alongside the formal legal system and Shari'a Law. More broadly, the tribal system provides essential services to communities and its authorities preserve security and stability, especially in collective disputes and in disputes between tribes. The tribal system comprises judges selected according to specific terms and conditions. Each judge specialises in a particular subject and rules according to procedures recognised and acknowledged by the tribe. They resolve disputes related to, *inter alia*, family matters, land conflicts, murder and honour crimes. A judge's ruling is final and enforceable on all parties involved. Common methods for resolving conflicts through a tribal judiciary include:

- *al atwa*: A truce or cooling-off period agreed between disputing tribes to allow for negotiations and discussions.
- *al jalwa*: Where a perpetrator's family flees to a sanctuary to avoid immediate retribution, which is legitimised under traditional customs, from an injured party. This evacuation process is carried out by and under the supervision of police in the village to ensure the safety of evacuees.
- *al munshed*: Where a family is compensated, for example with livestock or property, for an attempt made to dishonor the family name, such as a proven case of rape or attempted rape.⁴¹

2.9 International treaties

The Constitution vests the King with the authority to conclude treaties and agreements which, once ratified and published in the Official Gazette, form part of the legal order.⁴² An exception to this rule is that any treaty or agreement, which entails any expenditure to the State Treasury or affect the public or private rights of Jordanians, shall not be valid unless approved by the Parliament as stipulated in the Constitution.⁴³ In the case of any contradiction between an international treaty or agreement and national law, the international instrument prevails.⁴⁴ Jordan is a signatory to most major international treaties including the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women and the Convention on the Rights of the Child.⁴⁵ It is not a signatory to the Refugee Convention although in 1998 signed a Memorandum of Understanding (MoU) with UNHCR that confirms the principle of *non-refoulement* and recognises UNHCR's role in determining refugee status. Despite this, and even with many precedents issued by the Court of Cassation emphasising the superiority to international instrument over national laws, Jordanian judges are conservative in their application of international agreements.

3. Access to justice in Jordan

For the purposes of this report, legal empowerment is understood as all actions geared towards making the protections of the law accessible to ordinary people.

Legal empowerment is grounded on the idea that poverty persists partly because the poor do not enjoy legal rights or the power to exercise those rights. Breaking this cycle requires more than resources and capacity building; it requires the creation of a reliable and efficient legal framework that address the needs of vulnerable groups, a system that allows them to protect and uphold their rights and to hold political, administrative and private sector power-holders to account. The theory of change is that if people have power in the form of information, skills and tools, as well as a protective legal framework and confidence in the justice system, they will be able to protect and uphold their rights, access services equitably, and organise to advocate, confront corruption, and demand accountability.

⁴¹ Furr, Ann and Al-Serhan, Muwafaq (2008) "Tribal Customary Law in Jordan," South Carolina Journal of International Law and Business: Vol. 4: Iss. 2, Article 3. Available at: <http://scholarcommons.sc.edu/scjilb/vol4/iss2/3>.

⁴² Constitution Art 33(a).

⁴³ Ibid Art 33(b).

⁴⁴ Art 24 Jordanian Civil Code.

⁴⁵ See annex 1.



Legal empowerment requires that individuals can access professional, rights-respecting, affordable and timely legal counselling and representation to resolve their grievances. In Jordan, this is constrained by structural, socio-cultural and institutional factors. Perhaps most importantly, many people lack awareness of their legal rights and the tools to uphold them. Others do not have the resources required to access formal justice sector institutions, including the cost of legal advice, representation and/or court filing fees, or they are unable to bear the opportunity cost of being absent from employment or a small business. Particularly in the case of marginalised groups, social and cultural barriers restrict the referral of a legal issue outside the immediate family; others lack confidence in the justice system or are suspicious of lawyers and other legal service providers. For those who are able to access the formal justice system, many are pessimistic about the likelihood of a fair and rule-based outcome. Such concerns are not necessarily misplaced. The normative legal framework lacks internal coherency and pro-poor protections, court outcomes are often compromised by corruption and nepotism, and case processing is slow.

This section examines the volume and typology of legal issues arising in Jordan, who is affected by such issues and how they are resolved. The next section examines the case of marginalised groups and the specific constraints faced in terms of legal empowerment. The research then looks at the dispute resolution options for these groups of persons, including state and non-government-provided legal aid, as well as perceptions of the formal justice system and the quality of justice outcomes received at the formal system.

3.1 Access to the formal justice system

The most comprehensive and reliable data on access to justice in Jordan comes from a 10,000 household survey conducted by the Justice Centre for Legal Aid (JCLA) in 2010 in partnership with the General Statistics Department. The survey examined the volume and typology of legal issues affecting individuals in Jordan, and how socio-economic characteristics affect the manner in which legal issues are resolved. The data is broadly consistent with that provided by grassroots legal service providers. Unless otherwise stated, the data below is attributable to the JCLA survey.

3.1.1 Case volume

Over a five-year period, a legal issue affects 19.4 per cent of families. This suggests that annually, approximately 68,485 legal issues are likely to be encountered in Jordan.⁴⁶

3.1.2 Characteristics of people affected by legal issues

- Legal issues most commonly affect the 25-50 and the 60+ years age groups.⁴⁷
- Legal issues affect males significantly more than females (males accounted for 51.5 per cent of the sample population but 75 per cent of legal issue individuals).
- Although wealth does not affect the likelihood that a person will be affected by a legal issue, the vast majority of those encountering legal issues are poor: 91.8 per cent of families affected by legal issues

⁴⁶ There are no publicly available statistics on case volume provided by the Ministry of Justice, nor in the Judicial Authority Annual Report (2013).

⁴⁷ Persons between the ages of 25-50 accounted for 63.2% of legal issue individuals (but 31.8% of the sample population) and the 60+ years age group accounted for 10.8% of legal issue individuals (but 6.2% of the sample population). This is not deemed to be unusual; it is expected that the majority of legal issues impact adults who make up the bulk of persons that are working, marrying, engaging in property transactions etc.

have a monthly income of less than JD1,000 and 69.9 per cent have a monthly income of less than JD500.⁴⁸

- Most legal issues involve a criminal dispute (47.6 per cent), followed by a civil dispute (34.1 per cent) and then Shari'a disputes (18.3 per cent).

3.1.3 Dispute resolution

Of all legal issues, 31.3 per cent (approximately 21,453 cases per year) are likely to be referred to court with representation, 35 per cent (approximately 23,987 cases per year) are likely to be referred to court without representation and 33.2 per cent (approximately 22,725 cases per year) are likely to not be referred to court at all.⁴⁹ Gender, income and type of case each play a significant role in how a dispute is resolved.

Cases referred to court with an attorney

Of all legal issues considered under the survey, 31.3 per cent were referred to court and the case was represented by a lawyer. The decision to appoint a lawyer does not appear to be influenced by gender or income,⁵⁰ nor is there a relationship between appointing a lawyer and whether a verdict was received and executed.⁵¹ Of those who appointed a lawyer, 63.9 per cent stated that they found their presence to be useful in resolving the case. Of those cases that were referred to court, a verdict was issued in 54.8 per cent of cases. Where a verdict had been issued, this verdict had been executed in 89.3 per cent of cases, within a five-year period. Ministry of Justice statistics indicate that court cases take an average of one and a half years at the court of first instance.

Cases referred to court without an attorney

Of all legal issues, 35 per cent (approximately 23,987 cases per year) were referred to court without representation. Of this group, 38 per cent of issue-holders cited financial reasons, 33.1 per cent stated that they preferred to represent themselves, 21 per cent stated that the case was ultimately resolved amicably, 8 per cent stated that they did not trust lawyers and 4.9 per cent stated that they feared that a lawyer would worsen their situation. Of particular interest is the 13.4 per cent of all legal issues that were referred to a court in the absence of a lawyer because of financial reasons (approximately 9,177 cases per year). This group of case holders was more likely to be female,⁵² low income and recipients of National Aid or Zakat Funds,⁵³ more likely to be unemployed⁵⁴ and more likely to have a Shari'a case.

Cases not referred to court

In 33.2 per cent of legal cases, the issue was not referred to a court or other relevant tribunal (approximately 22,737 cases per year). Of those not referred to court 39.7 per cent involved civil cases, 54.6 per cent involved criminal cases and 5.6 per cent involved Shari'a cases. Overall, this group does not appear to be any more or less poor. In terms of why issues were not referred to court, 39 per cent stated that the problem was solved amicably,

⁴⁸ Wealth was assessed by reference to income, receipt of social benefits and possession of consumer durable assets. There was no significant difference between the sample population and the population affected by legal issues. In the sample population, 26.2% received less than JD250/month compared to 25.9% of households affected by legal issues; 45.8% of the sample population received JD250-499 compared to 44% of households affected by legal issues and 20.3% of the sample population received between JD500-999 compared to 21.9% of households affected by legal issues. Differences in terms of receiving a social benefit/allowance and in terms of access to consumer durable assets were small. Individuals affected by legal issues were, however, less likely to be employed when compared to the general population (54.9% compared to 68.6%).

⁴⁹ Around 66.5% of cases were referred to a court or other relevant tribunal (approximately 45,542 cases/year). The decision to refer a case to court does not appear to be influenced by gender or income. The income levels of households that appointed a lawyer were comparable to that of legal issue individuals generally: 41.9% fell within the monthly income bracket of JD250-499 (compared to 44% of all legal issue individuals), 23% had a monthly income of less than JD250 (compared to 25.9% of all legal issue individuals), and 25.1% fell within the income bracket of JD500-999 (compared to 21.9% of all legal issue individuals). Likewise, the gender division between legal issue individuals and legal issue individuals that appoint lawyers was almost identical (the male:female ratio of legal issue individuals was 100:33.3; the male:female ratio of legal issue individuals who appointed lawyers was 100:34).

⁵⁰ 40.9% of households that referred a case to court fell within the monthly income bracket of JD250-499 (compared to 44% of all legal issue individuals), 27.9% had a monthly income of less than JD250 (compared to 25.9% of all legal issue individuals), and 22.3% fell within the income bracket of JD500-999 (compared to 21.9% of all legal issue individuals). The male:female ratio of legal issue individuals was 100:33.3; the male:female ratio of legal issue individuals whose case were referred to a court is 100:32.9.

⁵¹ For persons obtaining a verdict and having the verdict executed 42.3% and 42% fell within the monthly income bracket of JD250-499 respectively (compared to 44% of legal issue individuals), 29.7% and 30.4% respectively had a monthly income of less than JD250 (compared to 25.9% of legal issue individuals) and 19.6% and 19.5% respectively fell within the income bracket of JD500-999 (compared to 21.9% of legal issue individuals). The male:female ratio of legal issue individuals was 100:33.3; the male:female ratio of legal issue individuals who obtained a verdict was 100:40 and the male:female ratio of legal issue individuals whose verdict was executed was 100:40.

⁵² The male:female ratio for all cases referred to court without a lawyer for financial reasons was 70.8:29.2 compared to 75:25 for legal issues generally.

⁵³ 52.2% of families received an income of less than JD250/month (compared to 25.9% of legal issue-holders generally), 36.7% received an income of JD250-499/month (compared to 44% of legal issue-holders generally) and 7.2% received an income of JD499-999/month (compared to 21.9% of legal issue-holders generally). 17% and 3.3% of households that did not refer their case to court due to financial reasons benefited from the National Aid and Zakat Funds respectively, compared to 5.7% and 0.9% of legal issue households.

⁵⁴ 49.2% were employed, compared to 54.9% of legal issue-holders generally.

24.2 per cent did not have the money to cover court and legal representation fees, 19.2 per cent cited shame, customs or traditions preventing them from pursuing their case and 6.7 per cent were unaware of the required procedures.

This data suggests that over a one-year period, approximately 5,459 cases (8.03 per cent of all cases) are not referred to a court or have the benefit of legal advice due to issues of cost. Of this group, 31.3 per cent involve women and 45.1 per cent involve criminal law cases.⁵⁵ Again, this group of case holders was more likely to be female,⁵⁶ low-income,⁵⁷ and less likely to be employed.⁵⁸ This group was also more likely to have a civil law issue and less likely to have a Shari'a issue. Of the group citing financial reasons for not referring their case to the court, 83 per cent stated that they would have done so had they been provided with financial assistance covering the lawyers' charges; 85 per cent would have done so had they received financial assistance covering the lawyers' fees and court charges and 87.1 per cent would have done so if they had received financial assistance covering the lawyers' charges, legal fees and other related expenses (e.g. transportation from and to court).

A final important group is those case-holders who cited shame, customs or traditions as the reason preventing them from pursuing their case at court; women made up 35.1 per cent of this group of cases, and 55.7 per cent of issues were criminal in nature.

3.2 Conclusions

The main conclusion from this data is that gender, income and case typology appear to impact whether a legal issue is not referred to court or is referred to court without representation. Vulnerability, in terms of being unemployed, having a lower income and being female, all appear to increase the likelihood that a legal issue will not be referred to court at all or be referred to court without representation. Of all factors, case typology seems to have the greatest impact on how a case will be resolved. Shari'a issues are highly likely to be referred to court (89.9 per cent of Shari'a cases are referred to court, with or without a lawyer).⁵⁹ This suggests either that such cases cannot be resolved amicably or are very important to resolve from a financial, cultural and/or social welfare perspective.

From a legal empowerment perspective, attention must be paid to the large group (approximately two-thirds of all legal cases) not referring their legal issues to court, or referring them to court in the absence of an attorney. While in any context, there will be a percentage of cases that are resolved amicably; there is evidence to suggest that many of these are resolved using the tribal justice system. Not enough is known about this system, including how marginalised groups such as women, the poor and people from lower status tribes, fare in such negotiations. Specific concern rests with persons that find themselves within this group because they lack financial resources. This group is more likely to be female, low income and unemployed. The next section examines specific marginalized groups and the constraints faced in terms of legal empowerment.

Each year in Jordan:

- 68,485 legal issues are likely to be encountered, directly affecting 52,608 people
- 21,453 cases per year (31.3 per cent) are likely to be referred to court with representation
- 23,987 cases per year (35 per cent) are likely to be referred to court without representation
- 22,725 cases per year (33.2 per cent) are likely to not be referred to court at all
- 5,502 cases (8.03 per cent) will not be referred to court because of financial reasons
- 9,120 cases (13.4 per cent) will be referred to court without an attorney because of financial reasons
- 91.8 per cent of families with legal issues receive less than JD1,000 per month; 69.9 per cent receive less than JD500 per month

⁵⁵ Of this group, 42.9% fell within the monthly income bracket of JD250-499, 39.5% had a monthly income of less than JD250.

⁵⁶ The male:female ratio for all cases not referred to court for financial reasons was 68.7:31.3 compared to 75:25 for legal issues generally.

⁵⁷ 40.3% of families received an income of less than JD250/month (compared to 25.9% of legal issue-holders generally), 38.3% received an income of JD250-499/month (compared to 44% of legal issue-holders generally) and 14.7% received an income of JD499-999/month (compared to 21.9% of legal issue-holders generally).

⁵⁸ 45.9% were employed, compared to 54.9% of legal issue-holders generally.

⁵⁹ Of all Shari'a issues, 40.6% were referred to court with a lawyer and 50.3% were referred to court without a lawyer; only 9.1% were not referred to court.

4. Specific vulnerable groups

Despite constitutional provisions that courts are open to all persons,⁶⁰ disadvantaged and marginalised populations face constraints accessing the formal justice system. Such groups include the poor, women, children, refugees and migrant workers, as discussed below.

“The courts shall be open to all and shall be immune from any interference in their affairs”.

Art 101(1) Constitution (1952) amended in the Official Gazette No. 5117 of 1/10/2011

4.1 The poor

The poor have difficulty accessing the formal justice system due to financial and conceptual barriers. The Conciliation (Magistrate’s) Courts’ Law number 15 of 1952 prohibits plaintiffs (except for lawyers) from appearing before the court in the absence of a lawyer in all cases with an estimated value of more than JD1,000⁶¹ and the Civil Procedure Law of 1988 prevents litigants from appearing before the court unless they are represented by a lawyer.⁶² At the Supreme Court, cases had to be presented by a lawyer with a minimum of five years’ experience.⁶³ Similar provisions exist with respect to the Constitutional Court.⁶⁴

While at the Shari’a and criminal courts legal representation is not obligatory, the Jordanian justice system is procedurally complex and navigating it effectively generally requires the assistance of a lawyer. Moreover, legal representation is expensive. The JCLA survey found that the average fee paid to a lawyer was JD958 (criminal cases), JD902 (civil cases) and JD542 (family law cases). This should be interpreted in comparison to average income: the survey data suggests that the vast majority of persons affected by legal issues are low income earners: 25.9 per cent have an income of less than JD250 per month (an estimated 17,737 cases per year) and 44 per cent have an income of between JD250 and JD499 per month (an estimated 30,133 cases per year).⁶⁵ As discussed in part 5 while there are provisions for state-provided legal aid, such measures are reserved for a small tranche of cases, or not comprehensively administered.

In the absence of a nationalised legal aid system, the result is that those who cannot afford a lawyer are excluded from the legal system. This group is likely to pursue an amicable solution and, as a last resort, go to court unassisted. This conclusion is supported by the data. While being poor does not necessarily make it more likely that a person will be affected by a legal issue, it does impact how that issue is resolved. Those not referring their legal issue to court received lower incomes than those affected by legal issues generally and those that referred their cases to court unrepresented had the lowest incomes and were more likely to be recipients of aid funds.⁶⁶ If the poor do refer cases to court, they can be discriminated against by court staff and administrative workers.

⁶⁰ Article 101(1) of the Constitution of The Hashemite Kingdom of Jordan (1952) as amended in the Official Gazette No. 5117 of 1/10/2011.

⁶¹ Art 41 of the Jordan Bar Association Law No. 11 of 1972 and its amending law No. 25 of 2014 states that ‘Notwithstanding the provisions of any other legislation, plaintiffs are prohibited from appearing before all kinds and levels of courts, arbitration bodies and execution departments in the absence of a lawyer (art. 41/1) with the exception of: a. Appearance before the magistrates’ courts in the civil cases valued at less than 1000 JD in addition to conciliation proceedings, civil public registry lawsuits, criminal cases and execution cases valued at less than 3000JD. Art 41(2) from the same law prohibited plaintiffs from register any lawsuit without a lawyer at the Court of Cassation, Court of High Justice, Courts of Appeal, Customs Courts of Appeal, Taxation Court of Appeal and all kinds of Courts of first Instance. Art 32(2) of the Conciliation (magistrate’s) Courts’ Law number 15 of 1952 and its amending Law No. 30 of 2008 states that plaintiffs that are non-lawyers are not allowed to be present in front of a conciliation judge that is overseeing a civil case unless a lawyer is present with a power of attorney and this applies to cases that are valued over JD1000 or the cases with estimated value for the purpose of registration.

⁶² Art 63(1) Civil Procedures Law No.24 of 1988 and its amendments: Subject to the provisions mentioned in the Jordan Bar Association Law and the Magistrate Courts Law, litigants (except for the lawyers) cannot appear before the court to consider the case unless accompanied by attorneys representing them upon a power of attorney.

⁶³ Arts 9(1)-(2) Administrative Judicial Law No. 27 of 2014 states the same conditions: All claims to this court must be filed by a licensed lawyer who has practiced law for at least five years or has worked in a judicial post for a similar period, in all cases plaintiffs are prohibited to be present at the court without a lawyer with the same conditions mentioned in section 1.

⁶⁴ Art 12(3) Constitutional Courts Law No. 15 of 2012: The memorandums referred to in sections 1 and 2 of this paragraph may only be submitted by a master advocate who has practiced in the legal profession for five years or who has worked in a judicial post for a similar period before practicing in the legal profession.

⁶⁵ For the broader survey population, 45.8% of participants surveyed fell within the monthly income range of JD250-499; 26.2% received less than JD250/month and 20.3% fell within the income range of JD500-999.

⁶⁶ Those that did not refer their legal issue to court received lower incomes than those affected by legal issues generally; those that referred their cases to court unrepresented had even lower incomes *and* were more likely to be recipients of aid funds. None of the groups showed significant differences in terms their possession of consumer durable assets. As might be expected, employment rates and related benefits (a bank account and social security) were consistent with this income distribution. The likelihood, therefore, that a legal issue-holder was unemployed, did not hold a bank account and was not membership of a social security scheme was lowest among all legal issue individuals, followed by those who did not report their case to court, followed by those who referred their case to court unrepresented.

4.1.1 What are the legal problems of the poor?

For the very poor, issues are more likely to involve a civil or Shari'a dispute rather than a criminal dispute. The very poor were more likely to report Shari'a cases.⁶⁷ The poor and very poor's most frequently reported cases were assault (77.2 per cent of those reporting this issue being poor or very poor), labour law (70.2 per cent being poor or very poor), divorce (72.5 per cent being poor or very poor), alimony (83 per cent being poor or very poor) and inheritance (80.1 per cent being poor or very poor). Further, the poor were almost exclusively affected by cases that, while small in overall volume, had important social or rights-related repercussions:

Offence	Cases as a % of total civil, criminal or Shari'a cases	% of those reporting poor or very poor
Child custody	6.5	90.2
Inheritance	16.8	80.1
Domestic violence	2.4	77
Sexual assault	0.4	100
Rape	0.1	100
Murder	0.1	100

4.2 Women

According to the 2010 JCLA survey:

- While women are less likely to be affected by a legal issue, being female increases the likelihood that a case will be referred to court without representation or not referred to court at all.⁶⁸
- Women reported 63.2 per cent of cases involving physical assault, 100 per cent of domestic violence cases, 74.7 per cent of the cases involving banking issues (loans, credit cards etc.), 82.6 per cent of the cases related to civil status and documentation, 100 per cent of the alimony and custody cases and 86.6 per cent of the divorce cases. While there were very few reports of cases involving rape, sexual assault and domestic violence, such cases were almost exclusively reported by women.
- Women are more likely to report issues involving Shari'a law: women reported 19.2 per cent of the criminal law issues, 17.1 per cent of the civil law issues, but 56.7 per cent of the Shari'a law issues. Women also reported 55.6 per cent of Shari'a cases not referred to court and 64.4 per cent of Shari'a cases referred to court in the absence of an attorney.
- Poor females were particularly likely to report certain types of issues: for all women reporting cases of assault, 79.4 per cent were very poor or poor; this figure is 83.8 per cent for cases of domestic violence, 60.9 per cent for land and property issues, 77.1 per cent for alimony cases, 94.8 per cent for custody cases and 68.9 per cent for divorce cases.

The obstacles faced by women in accessing the justice system involve a complex combination of legislative, economic and socio-cultural factors.

4.2.1 Legal factors

Jordanian legislation does not specifically prohibit discrimination on the basis of sex.⁶⁹ This has somewhat limited the opportunity to challenge inequitable provisions in various laws which impact women's legal standing and capacity in transactions, courts and civil departments.⁷⁰

⁶⁷ The distribution of income of those with criminal legal issues is similar to that of all legal issue individuals; civil issue-holders appear to have slightly higher incomes (63.9% of civil issue-holders receive an income of JD499/month or less compared to 69.9% of all issue-holders); and Shari'a issue-holders appear to have lower incomes (34.7% of Shari'a issue-holders receive an income of less than JD250/month compared to 25.9% of all issue-holders, 40.6% fall in the income range of JD250-499/month compared to 44% of all issue-holders and 18.9% fall within the income bracket of JD500+/month compared to 21.9% of all issue-holders).

⁶⁸ Females accounted for 48.5% of the sample population but 25% of legal issue individuals. Woman accounted for 25.4% of all those cases referred to court with a lawyer, 31.3% of those who did not refer to court for financial reasons and 29.2% of those who referred their issue to court unrepresented. Female-headed households accounted for 8.5% of all households affected by legal issues, but 13.3% of households that not to refer their case to court and 14.5% of households that referred their case to court unrepresented.

⁶⁹ Some argue that inclusion of the word 'sex' in article 6(1), or a provision referring specifically to gender-based discrimination, would ensure equality and help identify and amend discriminatory provisions in various laws. Others argue that art 6(1) guarantees the principle of non-discrimination. For example, art 6(3) "The State shall ensure work and education within the limits of its possibilities, and shall ensure tranquillity and equal opportunities to all Jordanians" and art 6(5) "The law shall protect motherhood, childhood and the old-aged; and shall avail care for the youngsters and those with disabilities and protect them against abuse and exploitation". See further, Jordan National Report submitted to the Human Rights Council (2013).

“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”.

Art 6.1 Constitution (1952) amended in the Official Gazette No. 5117 of 1/10/2011.

The most frequently cited legislation is that which prevents women married to non-Jordanians from passing their nationality to their husbands and children.⁷¹ This issue is discussed in depth in the following section on children. Other legal provisions often argued to be gender discriminatory relate to women’s rights under the Personal Status Law (No. 36 of 2010):

- Women who have never been married and are more than 18 years old must be represented in the marriage contract by a *wali* (custodian or guardian) whereas men represent themselves in the contract.⁷² The marriage contract must be witnessed by either two men or one man and two women.⁷³
- Under the Personal Status Law, the testimony of one man is equal to that of two women.⁷⁴
- In the case of divorce, the law vests child custody in the mother; this right then passes to the maternal grandmother, then the paternal grandmother, and finally to the father. The court then has the right to decide the relative most competent to hold custody.⁷⁵ Any woman vested with custody of a child loses such custody if they marry a foreigner.⁷⁶
- A child’s *wali*, usually the father,⁷⁷ is vested with the legal right to supervise a child, and is responsible for his or her maintenance and choice of education.⁷⁸ Both the *wali* and the person with custody of the child (usually the mother) are assigned caregiving rights, including with respect to education and discipline (the argument being that vesting legal responsibility in parents unequally is discriminatory).
- A woman with custody over minor children from a previous marriage needs the permission of a new husband (where this husband owns the house) for such children to live with her, whereas a husband does not need the permission of his wife for his minor children from a previous marriage to live in his home.⁷⁹

Critics assert that these provisions are gender biased, and that defining women’s rights from the perspective of *al wilayah* (the obligation on man to support women and children) and *wisayah* (guardianship), reinforce discriminatory attitudes. Islamic scholars counter that both systems *al wilayah* and *wisayah*, derive from the Shari’a and are designed to support and protect these vulnerable groups. Protection violations, when they do take place, relate to perpetrator actions and social and cultural norms, rather than the Islamic legal constructs themselves. In this regard, it is important to highlight that Shari’a and Islamic Jurisprudence are comprehensive and multidisciplinary codes designed to regulate the entirety of Muslim people’s lives, and the analysis of any

⁷⁰ Note that Jordan signed the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 3 January 1980, and ratified it on 1 July 1992. Jordan maintains reservations to articles 9.2 (States Parties shall grant women equal rights with men with respect to the nationality of their children) and 16.1/c, d and g (relating to the rights arising upon the dissolution of marriage, custody of children and family name). Jordan’s reservation are stated to be due to its Personal Status Law derived from Shari’a law, which sometimes grants women more rights than men, especially with respect to custody. Jordan has not yet ratified the Optional Protocol to the CEDAW; NGOs and individuals therefore cannot file complaints with the CEDAW Committee.

⁷¹ Whereas children of Jordanian fathers acquire Jordanian nationality at birth, regardless of the child’s birthplace. See art 3(4) Nationality Law No.6 of 1954 and its amendments.

⁷² A *wali* is the man responsible for a woman’s financial support according to secular law, Shari’a Law and Islamic Jurisprudence (the School of *Abu Hanifah*, ابو حنيفة). Divorced women and widows can represent themselves in a marriage contract (art 19 Jordan Status Law No. 36 of 2010).

⁷³ Art 8 Jordan Personal Status Law (No. 36 of 2010).

⁷⁴ Note that in civil, criminal and commercial cases, the testimony men and woman is considered equal.

⁷⁵ Art 170 Personal Status Law (No. 36 of 2010). Art 184(b) provides that the biological mother has a primary right to be entrusted with care of her young children, whether she is still married or has separated from her husband. Preference is then given to the maternal grandmother, then the paternal grandmother and then the father. A court may decide to have a child placed with another relative, if it is presented with evidence that such an arrangement is in the child’s interests. Art 173 states that the mother will retain the right to care for her children up until they reach the age of 15. Persons other than the mother will do so until the children reach the age of 10. After a child reaches the age specified in paragraph (a) of the article, he or she can choose whether to remain with the mother until reaching his or her majority. The time limits on care by a woman will be extended if this is necessary owing to an illness on the part of the male carer, unless the alternative is in the child’s best interests.

⁷⁶ Art 171(b) Personal Status Law (No. 36 of 2010). A mother maintains her right to custody until the child reaches 15 years of age, and for other women with custody rights, until the child reaches 10 years of age under art. 173(a). After this, the child has the right to choose to stay with his mother until he/she reaches 18 years under art 173(b).

⁷⁷ Art 123 Civil Code: “The guardian of the minor shall be his father followed by the guardian appointed by his father followed by his lawful grandfather followed by the guardian appointed by the grandfather followed by the court or the guardian appointed by the court”.

⁷⁸ Note that under art 184(a) Personal Status Law (No. 36 of 2010) the selection of education must take into consideration the resident of the women with custody over the child, and the *wali* has no right to transfer the child without the woman with custody’s consent.

⁷⁹ It should be noted that these laws aim to ensure that vulnerable groups are protected. In general, a husband does not have the right to let his family and relatives live in his home without his wife’s consent and such consent can be withdrawn at any time. The only exception to this rule is when he has minor children from a previous marriage or poor parents, and he cannot afford to maintain them in another house (art. 74 Personal Status Law No. 36 of 2010). The issue of contention is that women cannot exercise the same right. A woman has no right to allow her children from another marriage or her parent to live in a home provided by a new husband. If the house belongs to her, such consent is not required (art 76 Personal Status Law No. 36 of 2010).

specific provision should be placed within the context of this holistic system. For instance, it is often argued that the Islamic inheritance system is discriminatory in that it provides that women are entitled to half of a man's share. This is somewhat of a simplistic analysis; under the law, women inherit 50 per cent shares in four situations only, while they inherit identical shares to men in eleven situations and shares greater than men in fourteen situations. There are also five situations where women have a standalone right to inheritance that does not exist for men. The inheritance situation also needs to be discussed in the context of broader legal responsibilities placed on men to finance family life – responsibilities that do not extend to women. The takeaway is that a nuanced and comprehensive approach to discussing comparative equality in the context of the Personal Status Code, beyond the scope of this paper, is therefore required.

Other laws fail to provide women sufficient protection to uphold their rights, particularly with respect to sexual and gender-based crimes:

- The Penal Code stipulates that any person who has forced sexual intercourse with a female, other than his wife, shall be sentenced to at least 15 years of hard temporary labour.⁸⁰ If the female is a minor less than 15 years old the death penalty can be imposed,⁸¹ and a sentence of up to 20 years can be imposed if the victim is more than 15 years and less than 18 years old.⁸² The Penal Code has been criticised for its mitigating and exculpatory provisions, including article 310 which allows perpetrators of rape to escape punishment if the victim can be proven to be of “immoral character”.⁸³ Under article 308 of the Penal Code, if the victim and the perpetrator marry, the prosecution or the implementation of the sentence will be suspended. In 2011 this was amended to state that the perpetrator cannot benefit from any mitigating excuse where the victim is less than 18 years old (regardless of gender) and the perpetrator is at least 18 years old.⁸⁴ The public prosecutor also has the right to prosecute if the female is divorced without a legitimate reason within three years when the case is considered a misdemeanour, and within five years when the case is considered a felony.⁸⁵ It is important to note that while women are not legally obliged to enter such a marriage, they are often exposed to social and family pressure and there are no clear procedures to ensure female consent. Coerced marriage has no basis in law or in Islam and should be seen as a product of tribal custom in. Shari'a scholars have argued that allowing sex offenders to marry their victims is a “crime” and contradicts the purpose of marriage in Islam.
- Some penalties are regarded as not reflecting the grave nature of sexual crimes, for example the penalty of 1-3 years' imprisonment for a person who uses threats or intimidation or an anesthesiating drug to procure a woman to engage in unlawful intercourse.⁸⁶
- Marital rape is not criminalised.
- Perpetrators of so-called honour crimes can benefit from provisions that allow a judge to impose a reduced penalty when mitigating factors are at play.⁸⁷ Sentences can also be reduced where a victim's family

⁸⁰ Art. 292(a)(1) Penal Code No. 16 of 1960 amended by Law No.8 of 2011.

⁸¹ Art. 292(a)(2) Penal Code No. 16 of 1960 amended by Law No.8 of 2011.

⁸² Art. 292(b) Penal Code No. 16 of 1960 amended by Law No.8 of 2011.

⁸³ Art 310 Penal Code No. 16 of 1960 amended by Law No.8 of 2011: Whoever procures or attempts to procure a female for the following purposes, he/she shall be punished by imprisonment from six months to three years and a fine from Two Hundred to Five Hundred Jordanian Dinars: 1. Any female under the age of twenty years not being a common prostitute or of known immoral character to have unlawful sexual intercourse either within or without the kingdom.

⁸⁴ Under Art 308(1) Penal Code No. 16 of 1960 amended by Law No.8 of 2011, perpetrators of unlawful sexual intercourse will not be prosecuted if they marry. In 2011 this was amended by adding 308 bis to state that mitigating factors are irrelevant if the victim was under 18 years old and the perpetrator was 18 or over: “Subject to the provisions of Article (308) of this Act, the perpetrator has no right to benefit any of the mitigating excuse in sexual crimes stipulated in this chapter if the victim has not completed eighteen years old at the time of the crime, whether male or female, and the perpetrator has completed eighteen years old.” It should be noted that during the 2011 amendment of the Penal Code, article 308 was the subject of intense debate. While the article was amended, its substance remained, the legislature citing tribal nature of the society in Jordan and the paramount importance of family reputation and honour. See also art 97 which lists the reductions in penalties where a mitigating circumstance is made out. In 2011 art 345(bis) was introduced which states that mitigating circumstances referred to in articles 97 will not be taken into consideration if the victim was a boy or a girl under the age of 15.

⁸⁵ Art 208(2) Penal Code No. 16 of 1960 amended by Law No.8 of 2011.

⁸⁶ Art 311 Penal Code No. 16 of 1960 Penal Code amended by Law No.8 of 2011.

⁸⁷ There are six relevant mitigating or exculpatory articles in the Penal Code No.16 of 1960 amended by Law No.8 of 2011). 1. Art 97 lists the reductions in penalties where a mitigating circumstance is made out. This was amended in 2011 with the inclusion of art 345bis which states that the mitigating circumstances referred to in article 97 would not be taken into consideration if the victim was a boy or a girl under the age of 15. 2. Art 98 provides that mitigating circumstances may be taken into account where an offence was committed in a fit of rage. This was amended in 2011 with the inclusion of art 345bis which states that the mitigating circumstances referred to in articles 98 would not be taken into consideration if the victim was a boy or a girl under 15. 3. Art 99 lists the powers of the court to reduce penalties where mitigating circumstances are made out. 4. Under art 308, perpetrators of unlawful sexual intercourse will not be prosecuted if they marry. This was amended in 2011 with the inclusion of art 308bis which states that mitigating factors were irrelevant if the victim was under 18 years old and the perpetrator was 18 or over. 5. Art 310 provides that perpetrators of unlawful sexual behavior may escape punishment if the girl is considered as being of “immoral character”.6. Art 340 allows for mitigating circumstances, as opposed to exculpatory circumstances, to be taken into account in cases where a murder is committed by a person who catches a relative in the act of having sexual relations outside of marriage. In 2011 this article was amended, stating that in order to benefit of the mitigating excuse a man should unexpectedly catches his wife or a female kin committing adultery, and a woman catches her husband committing adultery in the marital home.

waives its right to file a complaint.⁸⁸ The issue of honour crimes often going unpunished, not being properly investigated, and being punished less severely than other equally violent crimes without an honour dimension, has been the subject of strong debate and culminated in the amendment of the Penal Code in 2011.⁸⁹ Such amendments meant that mitigating circumstances could not be taken into consideration where the victim was a boy or a girl under the age of 15. It is noteworthy that some practitioners suspect that the estimated numbers of so-called honour crimes may be overstated. They opine that cases of homicide committed in order to access additional inheritance are presented as honour crimes in order for the perpetrator to take advantage of exculpatory conditions in the law.

- Under the Crime Prevention Law (No. 7 of 1954), provincial governors may detain individuals that allegedly shelter thieves, habitually steal, constitute a danger to the public or are suspected of planning a crime.⁹⁰ Such persons are held in administrative detention without formal charges. This provision is routinely used to detain potential victims of honour crimes.⁹¹
- The Protection Against Family Violence Law (No. 6 of 2008) has likewise been criticised as being insufficiently protective. Specifically, its introduction of alternative punishments, precautionary measures and the requirement that acts of violence be first referred to Family Reconciliation Committees, are said to facilitate violence and protect perpetrators. The law also does not define nor expressly criminalise domestic violence.⁹² Moreover, it narrowly defines the locations where domestic violence can take place and the range of persons who can commit such acts. Cases of domestic violence can only be prosecuted under the Penal Code's general provisions on assault and battery, leaving it within the discretion of a judge to determine whether an act is considered violent.⁹³ For women victims of domestic violence seeking to divorce, the relevant provision is found in the Personal Status Law (divorce on the grounds of discord and conflict). Such acts can be difficult to prove because the Shari'a courts require testimony from either two men or one man and two women;⁹⁴ moreover social norms that dissuade women from bringing such matters into the public sphere.
- The 2011 amendment of the Penal Code No. 16 of 1960 strengthened the provisions relating to crimes of sexual harassment (sexual crimes where the perpetrator was a relative of the female or has a legal authority over her e.g. a *wali*, employer or supervisor).⁹⁵ Such amendments have been criticised, however, as limiting coverage to cases where harassment is perpetrated by an employer or employer's representative and thus overlooking acts committed by other groups, by failing to specify a punishment mechanism, and enabling the perpetrator to evade punishment unless the victim files a complaint under the Penal Code.⁹⁶

⁸⁸ In Jordan there are two kinds of criminal cases: crimes where the prosecutor cannot proceed without a personal official complaint, and crimes where the prosecutor can proceed regardless of a personal complaint. If a family does not issue a complaint, the judge has the authority to apply or not apply mitigation reasons. In practice, if the family waives its personal rights this is usually considered a motive for the judge to consider applying the mitigation reasons where, for instance, the punishment of death penalty can be reduced to permanent hard working or temporary hard working from 10 to 20 years. Activists have lobbied strongly that judges should not be permitted to apply art 99 to honor killings, since such killings are usually the result of agreement between the perpetrator and the victim's family.

⁸⁹ Amnesty International Annual Report 2013(Jordan) <http://www.amnesty.org/en/region/jordan/report-2013>. See also Y Mansur, M Shteiwi and N Murad "The Economic Underpinnings of Honour Crimes" Information and Research Centre, Committee on the Rights of the Child Concluding observations on the consolidated fourth and fifth periodic reports of Jordan 14 June 2014 CRC/C/JOR/CO/4-5 (para 21).

⁹⁰ Art 3 Crime Prevention Law (No. 7 of 1954).

⁹¹ Between 7 and 14 women were being held in administrative detention in 2012-2013, some for up to 10 years; Jordan Shadow NGO Report Submitted to CEDAW Committee Geneva, 2012 CEDAW p.14. See also Universal Periodical Review of Human Rights in Jordan NGOs Coalition for the UPR, Oct 2013; Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21A /HRC/WG.6/17/JOR/3 p.55.

⁹² Art 5 Act No. 6 of 2008 on Protection from Domestic Violence: "Crimes against natural persons are considered domestic violence, except for crimes falling under the jurisdiction of the Criminal Court". On 2 November 1999 the Family Protection Department "FPD" was established, vested with responsibility to handle cases relating to domestic violence and sexual abuse. The main objective of the FPD is to investigate domestic abuse and neglect of children and all cases of sexual abuse (regardless of age or sex, or whether the act was perpetrated within or outside of the family). The FPD covers seven governorates; it provides legal and policing services for victims of violence, including receiving complaints and investigating cases of violence. The Department for Human Rights and Family Affairs organizes training courses for judges and administrative staff and has established special registers and court rooms for domestic violence cases. There are, however, no specialized courts composed of trained and qualified judges.

⁹³ The 2007 Family Health and Population Survey indicated that one third of married women in Jordan are subjected violence by their husbands, Jordan Shadow NGO Report Submitted to CEDAW Committee Geneva, 2012 CEDAW p.32.

⁹⁴ Art 127 Personal Status Law No.36 of 2010. Under art 126(a), after hearing testimony the court will give the parties one month to reconcile; if the wife has initiated the divorce the judge will serve a warning and the parties will be given one month for reconciliation. Under art 126(h), if the claim is still valid after the month, the judge must refer both parties for arbitration by two arbitrators (one representing each party) and the judge shall rule according to the decision. If the two arbitrators fail to reach a decision either another two will be selected or a third arbitrator will be added and the judge will rule according to the majority decision.

⁹⁵ Arts 295(1-2) Penal Code No.16 of 1960 as amended by Law No.8 of 2011.

⁹⁶ Amendments to the Labour Law (2008) made sexual harassment in the workplace punishable and increased the penalties for violating articles in the section on women's and children's rights (see specifically art 29(6)).

4.2.2 Socio-cultural factors

The absence of an adequate protection framework is reinforced by traditional attitudes towards the roles and responsibilities of women and men in Jordanian society.⁹⁷ Violence against women is broadly considered a matter to be kept within the private sphere, because of its direct connection to a woman and her family's reputation.⁹⁸ Moreover, cultural norms that support subservience and patriarchy normalise rights violations and place strong cultural disincentives upon women to refer the resolution of disputes outside of their immediate families. If women do refer cases to court, they can face harassment, discrimination, intimidation or lack of assistance by police, public prosecutors and judges. In some locations, it is considered inappropriate for women to attend court, police stations or government offices unaccompanied by a man. Justice sector employees also lack understanding of gender issues, rights and responsibilities. Moreover, there is tension between gender rights and obligations and the accepted cultural-religious framework.

Specific laws perpetuate such attitudes, such as the provision that requires consent from a child's *wali* for a mother to take her child outside of the country⁹⁹ and the conditions entitling employed women to *nafaqa* (living expenses paid by her husband). Some argue that *nafaqa* reinforces husbands' ability to exercise control over their wives' right to employment.¹⁰⁰ While this might be the case in practice, it has no basis in law.¹⁰¹

Even after laws have been amended, cases of discriminatory practice can continue. Cases have been reported where:

- Women have been unable to apply for a passport without their *wali* or husband's permission, or without being accompanied by their husband or father.¹⁰² Likewise, children have been unable to obtain a passport without their *wali* or father's approval.¹⁰³
- Women have not been able to obtain a birth certificate for their children without written authorisation of the *wali*.¹⁰⁴
- Women have not been permitted to testify in civil courts on equal basis with men on the grounds that the Personal Status Law equates the testimony of one man to that of two women.
- In the Shari'a courts, women have been prevented from filing for divorce in the absence of their guardians.¹⁰⁵
- Women filing for divorce on the grounds of marital discord have been required to provide proof through witnesses, while the husband has been permitted to rely on hearsay evidence.¹⁰⁶

Cross-institutional and coordination failures also impact the capacity of women to uphold their rights. Health sector workers and police lack basic skills and protocols for dealing with domestic and sexual violence cases. Forensic specialists are not usually available at general medical clinics, which impacts the ability of women to document and prove abuse. Moreover, forensic reports tend to call for a suspension of less than 10 days, which categorises a violent act as a misdemeanour. As a result, if a woman withdraws her complaint the public prosecutor has no legal right to pursue the case. Finally, there is little cooperation or coordination (including an effective referral system) between the health sector, police and non-government organisations (NGOs). The Family Reconciliation

⁹⁷ In 2012, Jordan ranked 121 out of 135 countries on the Gender Gap Index. UNICEF country Report Jordan 2012 (p2); http://www.unicef.org/about/annualreport/files/Jordan_COAR_2012.pdf.

⁹⁸ 'Women's Rights in Jordan', Report submitted to The Universal Periodic Review *the Human Rights Council*, National Coalition led by the Arab Women Organization (2013).

⁹⁹ Under Art. 176 Jordan Personal Status Law No.36 of 2010, if a mother holding custody of a child holding Jordanian nationality wants to travel outside the country, prior consent from the *wali* must be obtained and the travel or residence abroad must be for the benefit of the child. Under Art. 177 Personal Status Law No.36 of 2010, if the *wali* does not approve consent can be obtained by a court.

¹⁰⁰ The general rule stipulated in art. 59(a-b) Personal Status Law No.36 of 2010 is that it is the husband's responsibility to cover his wife's expenses (*nafaqa*), regardless of her existing wealth, including food, shelter, clothes, healthcare and domestic help if she is accustomed to this.

¹⁰¹ Under the Personal Status Law No.36 of 2010, a wife's right to *nafaqa* has no effect on her right to work unless such a prohibition is stipulated in the marriage contract. Under art 61, an employed woman is entitled to *nafaqa* if her work is legitimate (art 61(a)(1)), and her husband approves it explicitly or implicitly (art 61(a)(2)); a husband cannot withdraw such approval unless he has a legitimate reason and without causing any damage to the wife (art 61(b)).

¹⁰² Art 12 of the Passport Law No. 2 of 1969 required the *wali* or the husband's written approval for a woman to be issued a passport. This Law was cancelled by Temporary Law No.5 of 2003, which gave the woman the right to issue a passport without her *wali* or husband's approval. Law No. 5 of 2003 was rejected by the parliament and declared void in the official Gazette No. 5146 of 15/3/2012 (after nine years of implementation). This required that Law of 1969 be put into implementation immediately. The new amendment of Law No. 2 of 1969 was released in 2013. Under art 9 of Law No.2 of 1969 amended by Law 2013, article 12 (which required the written approval of *wali* or husband) was deleted.

¹⁰³ The provisions of the Passport Act No. 5 of 2003 do not require the written or verbal consent from the father to issue a passport.

¹⁰⁴ Mothers and fathers have the legal right to register and obtain birth certificates for their children under art 14 of Jordan's Civil Status Law No. 9 of 2001 amended by Law No.6 of 2011. The consent of the *wali* is required under law to issue an ID for children below the age of 16; any person above this age has the right to issue an ID himself (art. 38a Jordan Civil Status Law No. 9 of 2001 amended by Law No. 6 of 2011).

¹⁰⁵ Under ch.4 Personal Status Law No.36 of 2010 a wife can file a divorce case without her *wali*'s approval.

¹⁰⁶ Both a husband and wife can provide hearsay evidence under art 127 Personal Status Law No.36 of 2010.

House receives female victims of violence through the Family Protection Department, limiting women's ability to go directly to the shelter or through an NGO if they do not want to report to a police station.¹⁰⁷

4.2.3 Economic factors

Economic factors increase women's vulnerability to certain rights violations, as well as their capacity to refer cases to court and secure representation. From the JCLA survey, for all women reporting cases of assault, 79.4 per cent had an income of less than JD500 per month; this figure is 83.8 per cent for cases of domestic violence, 60.9 per cent for land and property issues, 77.1 per cent for alimony cases, 94.8 per cent for custody cases and 68.9 per cent for divorce cases. In terms of their financial capacity to seek a legal remedy, 73.9 per cent of women affected by legal issues were either unemployed or working within the home; 76.8 per cent did not have a bank account and 71.7 per cent did not have a social security fund. The likelihood that a woman was unemployed, did not hold a bank account and was not a member of a social security fund increased for those did not refer their case to court, and increased further still for women that referred their case to court unrepresented.¹⁰⁸

4.2.4 Land and property

Under the Civil Code, any person at least 18 years of age enjoys the full capacity to enjoy civil rights, including property rights.¹⁰⁹ Property rights are defined as the power of the owner to use, exploit and dispose of what he or she owns in an absolute manner and to take the benefit from its products and to carry out all transactions legally permissible under law, including the right of use, exploitation and disposal, whether for value, or gratuitously.¹¹⁰ Women do not need the approval of their husbands or *wali* to dispose of property.

Despite such provisions, women's property ownership is extremely low. The United Nations Fund for Women reports that only 10 per cent of land and property owners in Jordan are women.¹¹¹ In 2012 women's ownership of apartments was 19.5 per cent, while women's ownership of land was 9.2 per cent. There may also be a loose relationship between women's land ownership and education; 98.7 per cent and 98.5 per cent of illiterate women did not own land or homes respectively, while the rates for educated women were 90.7 per cent and 89.3 per cent respectively.¹¹² These low rates predominately reflect social and cultural influences. It is a cultural norm that working women contribute to the family income by giving their salaries to their families. Further, while women have rights of inheritance under Islamic law and the Personal Status Law, many women are pressured to waive such rights especially with respect to property, in order to maintain property ownership within the male lineage. There is inadequate legal protection against women being forced to waive their inheritance rights and no guarantees that they will be compensated.

4.3 Children

Similar to the legal protection framework for women, children are exposed to protection risks due to both legislative inadequacies as well as issues related to customary norms and practices that have a non-legal basis. Children (0-18 years of age) account for 46.2 per cent of the population – 2,821,290 persons in total in 2010. The average number of children per family is 3.8.¹¹³

4.3.1 Legal responsibility

In 2013, the number of cases filed at Jordan's three juvenile courts was 1,743.¹¹⁴ Taken over the last five years, the vast majority of cases relate to "serious and major offences against the person" (assault or crimes against property)

¹⁰⁷ Dar Alwifaq (Family Reconciliation House) is managed by the Ministry of Social Development and is governed by Regulation 48 of 2004. Cases are referred to Dar Alwifaq through the Ministry of Social Development or the Family Protection Department. To receive women without a formal referral requires special permission from the Ministry of Social Development. Dar Alwifaq hosts women only for 3–6 months.

¹⁰⁸ For females that did not refer their issues to court, 73.1% did not have a pension or social security scheme and 80.5% did not have a bank account (compared to 76.7% and 71.7% of legal issue-holders respectively). For females that referred their cases to court without representation, 87.7% did not have a pension or social security scheme and 84.2% did not have a bank account (compared to 76.7% and 71.7% of legal issue-holders respectively).

¹⁰⁹ Art 43 Civil Code (No.43 of 1976).

¹¹⁰ Art 1018(1) Civil Code (No.43 of 1976).

¹¹¹ Freedom House, Women's Rights in the Middle East and North Africa - Jordan, 14 October 2005, available at: <http://www.refworld.org/docid/47387b6b39.html>.

¹¹² Survey on population and ownership for the year 2012, General Statistics Department.

¹¹³ Consideration of reports submitted by States parties under article 44 of the Convention, Combined fourth and fifth periodic reports of States parties due in 2011 : Jordan (1 March 2013) CRC/C/JOR/4-5 (para 10). Note that Jordan ratified the Convention on the Rights of the Child (CRC) and text of the Convention was published in issue 4787 of the Official Gazette on 16 October 2006 (the government, however, maintains reservations to articles 14, 20 and 21 of the Convention). Moreover, Special Law No. 50 of 2006 stated that all provisions of the CRC Convention were considered as a part of this Law. Jordan ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2006. The text was published in issue 4787 of the Official Gazette on 16 October 2006.

¹¹⁴ Judicial Authority report 2013. In 2009 and 2010 4,258 and 4,573 crimes were committed by children respectively. According to Judicial Authority Annual Report 2011 the number of cases filed at the three juvenile courts (Amman, Zarqa and Irbid) decreased from 1,904 cases in 2010 to 1,492 cases in 2011. The percent of case disposition also decreased from 1,995 cases in 2010 to 1,580 cases in 2011.

and nearly all offenders were boys.¹¹⁵ The most contentious issue is the age of criminal responsibility, which is currently set at seven years.¹¹⁶ The new Juveniles Bill (currently awaiting executive signature) increases the age to 18 years.¹¹⁷

4.3.2 Violence against children

Violence against children is recognised as a common and serious phenomenon in Jordan, driven by societal norms and cultural practices. In 2007, UNICEF estimated that around 70 per cent of children were exposed to verbal violence at home and school, and around one-third were exposed to physical violence at home and 57 per cent at school.¹¹⁸ A key bottleneck to reducing violence against children is the Penal Code's provisions, which give parents the right to discipline their children subject to the condition that the punishment must not cause any harm or injury and it is accepted according to general customs.¹¹⁹ While a computerised tracking system for violence against women and children has been established, reporting is hindered by weak political support from the Ministry of Health and lack of conviction among doctors regarding the need to combat violence against women and children.¹²⁰

4.3.3 Sexual abuse and violence

Sexual abuse and violence against children is similarly widespread. While child rape is criminalised with aggravated penalties for children less than 12 years,¹²¹ the legal framework has been criticised for providing insufficient protection to boys, and punishments that are not commensurate with the grave nature of such crimes.¹²² Mitigating provisions in the law (discussed in section 4.2.1) also allow perpetrators to escape prosecution or face reduced penalties.

The minimum age for marriage is 18 years for both sexes.¹²³ Girls aged 15-18 years may be married with the consent of a judge and the chief judge provided that a strict set of conditions are met.¹²⁴ According to the Department of the Chief Justice, in 2013, 9,618 females under the age of 18 were married (13.2 per cent of all females married).¹²⁵ This has been somewhat linked to poverty-related parental pressure placed on girls to marry at an early age and out-of-wedlock pregnancy.¹²⁶ In 2014, during the examination of reports from Jordan, the Committee on the Rights of the Child expressed concern regarding the apparent ease with which girls were married. The Committee wanted to address the exceptions where girls could get married at a younger age, for example in cases when marriage would 'ward off a certain evil' or 'secure a certain benefit'. The same question was applied to Syrian refugee girls. The Committee was informed that when girls came from Syria already married, Jordan's response was to register them as married and validate the marriage, even if the marriage in Syria was illegal because the girl was under-age, and had been conducted customarily or in secret.¹²⁷

A clear obstacle in responding to sexual crimes is that children under the age of 15 years cannot lodge complaints for rights violations unless they are assisted by their parents or their guardian.¹²⁸ While the government is

¹¹⁵ Committee on the Convention on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 (para 43); see also 'Achievements of the Directorate of Social Defense', Ministry of Social Development (2009).

¹¹⁶ See Arts 36 and 19(d) Juveniles Act No. 24 of 1968 amended by Law No.35 of 2007, and Art 94 Penal Code No. 16 of 1960 amended by Law No.8 of 2011.

¹¹⁷ Committee on the Rights of the Child 'Combined fourth and fifth periodic reports of States parties due in 2011: Jordan' CRC/C/JOR/4-5 (1 March 2014) para 75.

¹¹⁸ 'Violence against children study in Jordan', UNICEF (2007); UNICEF country report Jordan (2012) p.2 available at: http://www.unicef.org/about/annualreport/files/Jordan_COAR_2012.pdf

¹¹⁹ Art 62 of the Penal Code (No. 16 of 1960 and its amendments); see also analysis on domestic violence law (section 4.2.1).

¹²⁰ UNICEF country report Jordan (2012) pp.8-9 available at: http://www.unicef.org/about/annualreport/files/Jordan_COAR_2012.pdf.

¹²¹ Committee on the Rights of the Child 'Combined fourth and fifth periodic reports of States parties due in 2011: Jordan' CRC/C/JOR/4-5 (1 March 2014) para 189.

¹²² The law prescribes a maximum penalty of death for rape of a girl below the age of 15 years and raises the penalty to twenty years of hard labour for rape of a girl aged between 15 and 18; if the perpetrator is an ascendant of the victim or close kin, aggravated penalties are imposed. Committee on the Rights of the Child 'Combined fourth and fifth periodic reports of States parties due in 2011: Jordan' CRC/C/JOR/4-5 (1 March 2014) para 97, 31.

¹²³ Art 14 Personal Status Law No.36 of 2010.

¹²⁴ Art 10/b Personal Status Law No.36 of 2010: (1) The groom must be a suitable match for the bride in terms of his capacity to pay maintenance and the bride price (2) The marriage must be intended to avert a wrongful deed or to prevent the loss of a genuine advantage. (3) The judge must ascertain that the bride has given her free consent and that the marriage is in her interests. If the bride or groom suffers from a mental impairment, a medical report must be produced to show that the marriage is in the partners' interests. (4) The marriage must be contracted with the guardian's consent, due regard being had to articles 6 and 12 of the Personal Status Code. (5) A document attesting to the fact that the judge has verified compliance with the above conditions must be produced. It will be used to draw up the marriage permit in accordance with the established rules and procedures.

¹²⁵ Department of Chief Justice Statistics Report 2013.

¹²⁶ Committee on the Convention on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the Convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 para 18, 33.

¹²⁷ Committee on Rights of Child examines reports of Jordan on the Convention, Children in Armed Conflict and the Sale of Children (27 May 2014), Office of the High Commissioner for Human Rights available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14649&LangID=E>.

¹²⁸ Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' 14 June 2014 CRC/C/JOR/CO/4-5 (para 35). Under Art 15 Juveniles Act No.24 of 1968 and its amending Law No.35 of 2007 no investigation or trial

considering revising the Family Code to change the system under which children can make complaints, the current situation can prevent reporting in cases where a family member is involved (such as in the case of physical or sexual abuse), the family member is supportive of the rights violation (for example in cases of child marriage) or is dissuaded by social and cultural norms against reporting the rights violation. If a child is assaulted by a close relative, or if a child cannot convince their guardian to submit the complaint for them, the child can refer the case to the Office of the Public Prosecutor, however, this creates unreasonable hurdles and presumes that children are aware of the legal options available to them.

4.3.4 Child sexual exploitation and trafficking

Jordan remains a destination and transit country for children subjected to forced labour and sex trafficking, although there is a lack of data on the extent and magnitude of the problem.¹²⁹ The Penal Code lists a group of offences under the category of sexual exploitation of children, including child prostitution, child pornography and the abduction or removal of a minor, and provides aggravated penalties for child abduction.¹³⁰ Child trafficking is covered under the Human Trafficking Act No. 9 of 2009.¹³¹ Criticisms include that the government's approach to catching and prosecuting offenders is weak and that the protection provided to victims is insufficient (most are referred to NGO-run shelter services or placed in detention facilities).¹³²

4.3.5 Child labour

Child labour is widespread in Jordan, particularly in the wholesale, retail trade and agriculture sectors. Boys over 12 make up the vast majority of cases, but girls are more likely to be employed in the domestic labour sector where there are risks concerning harsh conditions and physical and sexual abuse.¹³³ A survey conducted by the Department of Statistics and the International Labour Organization in 2007 found that there were 33,190 child workers in Jordan between the ages of 5 and 17 years, or 1.9 per cent of the population.¹³⁴ The Ministry of Labor established a Child Labour Unit in 1999 focused on child rehabilitation, inspections and legal action,¹³⁵ but again the actions of the State have been criticised as lacking in rigor.¹³⁶

4.3.6 Discrimination

Children born out of wedlock enjoy the same rights and legal capacity as children born within the framework of legitimate marriage under the Jordan Nationality Law No.6 of 1954 and its amendments. The Committee on the Rights of the Child, however, has argued that their classification as "illegitimate" is discriminatory.¹³⁷ Moreover, such children suffer from de facto discrimination that stems from the illegal nature and non-acceptability of sexual intercourse outside of marriage under both Shari'a law and the Personal Status Law.¹³⁸

procedures must be conducted with the child, but in the presence of his father or *wali* (guardian) or the person put under his supervision or his lawyer, and in the case of all the above persons are unable to attend the official "monitor behaviour" is to attend the hearings in order to help the child. Responding to an inquiry for clarification, the Jordanian delegation at the Committee on the Rights of the Child review in May 2014 confirmed that if a child was under 15 years and wanted to complain of a crime committed against them, then the child's guardian had to submit the complaint, Committee on Rights of Child examines reports of Jordan on the Convention, Children in Armed Conflict and the Sale of Children (27 May 2014), Office of the High Commissioner for Human Rights available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14649&LangID=E>.

¹²⁹ Committee on the Convention on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the Convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 (para 93).

¹³⁰ Penal code (no. 16 of 1960, as amended by Law No. 12 of 2010).

¹³¹ Article 9 of the Human Trafficking Act No. 9 of 2009 defines human trafficking as: "1. The recruitment, transportation, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation; (2) The recruitment, transportation, harbouring or receipt of a person under the age of 18 for the purpose of exploitation, even if such exploitation is not carried out by means of the threat or use of force or by the other methods enumerated in paragraph (1)." Art 3 defines exploitation as: "The exploitation of others in forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs or prostitution or other forms of sexual exploitation."

¹³² Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' 14 June 2014 CRC/C/JOR/CO/4-5 (para 61).

¹³³ Ibid para 57.

¹³⁴ The employment rate among children under the age of 12 years was very low and employment was rare among girls.

¹³⁵ Committee on the Convention on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 (para 162).

¹³⁶ Art 73 Labour Law No. 8 of 1996: Taking into consideration the provisions related to the vocational training, no juvenile not reaching sixteen might be employed under no circumstances. Art 74: No juvenile not reaching eighteen might be employed in the dangerous or exhausting occupations or those harmful to health. These occupations shall be specified by decisions issued by the Minister after consulting the competent official authorities. Art 75: No juvenile might be employed in the following cases: (a) More than six hours per day provided that he/she shall be given a rest time not less than one hour after successive four working hours. (b) Between 8 p.m. and 6 a.m. (c) In the religious feasts, public holidays and weekly holidays.

¹³⁷ Art 157 of the interim Personal Status Law No. 36 of 2010 provides: (a) The child's descent from the mother shall be established at birth. (b) The child's descent from the father shall only be established based on: (i) Proof of marriage; (ii) Acknowledgement of paternity; (iii) An evidentiary document; (iv) Incontrovertible scientific evidence and proof of marriage. For mothers who are married, rights are based upon the marriage contract and Personal Status Law, however those who have children outside marriage are not covered by the Personal Status Law due to the absence of a marriage contract.

¹³⁸ Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' 14 June 2014 CRC/C/JOR/CO/4-5 (para b15).

Legislation prevents women married to non-Jordanians from passing their nationality to their husbands and children. The only exception relates to children born to an unknown father or where the father is without or of unknown nationality.¹³⁹ This exception is widely understood to be underutilised, if at all.¹⁴⁰ As the Committee on the Rights of the Child noted in May 2014, the inability to transfer citizenship to children born to an unknown father is one impact of criminalising sexual relations out of wedlock on children born as a result of those relations.¹⁴¹ Children that cannot avail of Jordanian nationality are granted annual alien residency permits while they are living under their mother's care. An alternative is that, under the Jordanian Passports Act of 2003, the Minister of Interior has the power to issue an ordinary passport valid for a period of up to five years to the children of a Jordanian woman, subject to the approval of the Prime Minister.¹⁴² Because these applications are subject to approval by the Prime Minister, the hurdles are considered by experts to be so burdensome as to render them impractical at best. Experts at the Committee on the Rights of the Child review in May 2014 outlined incidents where Jordanian nationality was withdrawn from children of Palestinian origin, leaving them stateless.¹⁴³ Human Rights Watch likewise identified 2,700 cases of dual Palestinian-Jordanian nationals who had their Jordanian nationality stripped revoked between 2004-2009, for example when they attempted to renew their passports, leaving them stateless.¹⁴⁴

Children unable to avail of Jordanian nationality can suffer from discrimination at police stations, in the education and health systems, and with respect to employment. Children may also be unable to undertake higher education due to the high tuition fees imposed on foreigners, which can encourage early marriage. In response to such concerns, on 9 November 2014, the Prime Minister announced the government's approval to grant the children of Jordanian women married to foreigners certain privileges and facilities including: free high school education and health services in government schools and institutes, labour rights, property rights, rights of investment in Jordan, and the right to obtain a driving licence.¹⁴⁵

A further issue is that legislation discriminates against girls the field of inheritance and marriage, and that gender discriminatory provisions in the Interim Status Code Act impact children, such as the authorisation of polygamy.¹⁴⁶ As discussed in section 4.2.1, inheritance and polygamy are constructs that sit within the wider framework of Islamic jurisprudence and hence require a nuanced and holistic assessment.

4.3.7 Property rights

There is no provision in the law that prevents a child from owning property.

4.3.8 Access to justice

A major constraint is the lack of independent and effective complaints mechanisms available to children. The police are generally the central contact point in cases of violence against children, child abuse and maltreatment, which can dissuade victims from reporting rights violations, despite a 24-hour family defender service at police stations around the country. There is an absence of systems to facilitate the provision of free legal assistance for children at an early stage and throughout legal proceedings. Legal representation for juveniles during the investigation stage is 26.9 per cent. Children are also detained at high rates and for long periods, including in pre-trial detention (as opposed to detention being used as a last resort). Further criticisms include the absence of specialised juvenile courts and judges, and inadequate protections for child victims and witnesses of crimes.¹⁴⁷ A final issue is that crimes against children are not approached with requisite seriousness, particularly in the case of groups that face high levels of discrimination such as girls and those legally classified as 'illegitimate'.

¹³⁹ Whereas children of Jordanian fathers acquire Jordanian nationality at birth. Art 3(4) Jordan Nationality Law No.6 of 1954: "A child will be deemed a Jordanian national if he or she is born in the Hashemite Kingdom of Jordan to a mother who is Jordanian and a father whose nationality is not known or who is stateless or whose paternity has not been legally established".

¹⁴⁰ Most experts operate under the educated assumption that such provision is almost never used as the mother would have to admit to sexual relations out of wedlock, which is criminalised.

¹⁴¹ Committee on Rights of Child examines reports of Jordan on the Convention, Children in Armed Conflict and the Sale of Children (27 May 2014), Office of the High Commissioner for Human Rights: available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14649&LangID=E>

¹⁴² Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' (14 June 2014) CRC/C/JOR/CO/4-5 (para 25).

¹⁴³ Committee on Rights of Child examines reports of Jordan on the Convention, Children in Armed Conflict and the Sale of Children (27 May 2014), Office of the High Commissioner for Human Rights: available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14649&LangID=E>

¹⁴⁴ Human Rights Watch. (2010) Stateless Again, available at: <http://www.hrw.org/sites/default/files/reports/jordan0210webwcover.pdf>

¹⁴⁵ Certain privileges will only apply to mothers residing in Jordan for at least five years.

¹⁴⁶ Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' (14 June 2014) CRC/C/JOR/CO/4-5 (para 17, 38).

¹⁴⁷ For example in cases where offences are committed by adults and children, children are judged by adult courts. See further Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' 14 June 2014 CRC/C/JOR/CO/4-5 (para 63, 65). Court divisions have, however, been established to deal with family cases, particularly cases of domestic violence; see Committee on the Convention on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 (para 41).

In response to criticisms that the juvenile justice system is geared towards punishment rather than rehabilitation, apparatus for diversionary measures, including probation, mediation, counselling, and community service have been set in place. Specifically, the Juvenile Police Department is vested with the jurisdiction to settle complaints concerning petty and major offences committed by young first-time offenders and that carry a penalty of up to two years. Petty offences receive a caution and major offences require a no-repetition pledge by the guardian or caregiver.¹⁴⁸ In 2012, approximately 79 per cent of cases dealt by the Juvenile Police Department were diverted away from the court system into community-based alternatives.¹⁴⁹ Nevertheless, the enforcement of restorative criminal justice fails to specify alternatives to incarceration and does not give the judge sufficiently broad powers and flexibility to apply principles of restorative justice. Restorative justice programs also require awareness and education for communities to accept new concepts and approaches towards juvenile justice.¹⁵⁰

4.4 Migrant workers

In 2013, there were 286,197 documented migrant workers in Jordan, and up to another 700,000 workers without permits. The impact of such imported labour on the economy is significant. The International Labour Organization has estimated that at least half of new jobs created annually are filled by foreign workers;¹⁵¹ in the agricultural sector, migrant labour represents more than 84 per cent of the total labour force. Women are mainly employed in the domestic labour market, and in the tourism and hospitality sectors, while men are typically engaged in the agricultural, construction, manufacturing and garment industries. The main protection risks are physical, psychological and sexual abuse, exposure to hazardous working environments and exploitative labour practices. Both groups face problems accessing identity documents (which are routinely confiscated by employers), wage payment (both at agreed upon rates and regularity) and access to essential services such as health care.

The applicable law and regulations have been criticised as being loosely worded and open to interpretation. The key issue, however, is not the absence of a protective legal framework, but one of implementation. The combination of a poorly regulated system with few checks and balances to protect both workers and employers, deeply entrenched discriminatory attitudes towards migrant workers held by both employers and protection agents, and the hidden nature of their work (most are employed in isolated factories and inside homes), perpetuate abuses and make it difficult to obtain redress.

A key issue is that Jordanians make very heavy investments to secure a domestic worker: up to USD 5,000 paid to a recruitment agency. Employers, as well as workers, are aware that better conditions and rates of pay are offered by expatriate families and in the private sector. This creates a risk that employees will use a sponsoring family to legally enter the country, then find work elsewhere. To guard against this risk and in an effort to protect their 'asset', employers often restrict movement, communication and, in particular, confiscate passports. Such conditions, in addition to other forms of abuse and mistreatment, create additional incentives for a worker to leave their employment. Domestic workers are then highly vulnerable to detention, more exploitative forms of labour, or forced and arbitrary deportation. Moreover, once they have left their place of employment, they are in violation of the Residency and Foreigners' Affairs Act and accumulate daily fines that have to be paid in order to leave the country.¹⁵² These incentives to abrogate the rights of workers and their subsequent vulnerability operate in a vicious cycle.

4.4.1 The applicable law

The Labour Law regulates the working conditions of all employees, including migrant workers. It prescribes maximum working hours, rights to vacation days and sick leave. In 2012 the national minimum wage was increased to JOD190 per month (approximately USD268).¹⁵³ This increase excluded non-Jordanians, whose minimum wage remained at JOD150, and all workers employed in the garment industry.¹⁵⁴ Jordanians employed in the garment industry receive a minimum wage of JOD170 per month; non-Jordanians are entitled to JOD110 per month. This

¹⁴⁸ The Juvenile Police Department was established in 2011 under Jordanian Juveniles Act of 1968, as amended, and the Juveniles Bill of 2011. Under Article 14 (a) the department is mandated to assist young people in conflict with the law and children in need of protection, and to provide social, psychiatric, prevention and rehabilitation programmes. See further, Committee on the Rights of the Child 'Consideration of reports submitted by states parties under art 44 of the convention: Jordan' (1 March 2013) CRC/C/JOR/4-5 para 43.

¹⁴⁹ UNICEF country report Jordan 2012 p.2 available at: http://www.unicef.org/about/annualreport/files/Jordan_COAR_2012.pdf

¹⁵⁰ National Centre for Human Rights. (2013) Juvenile Criminal Justice in Jordan (page 17) available at:

http://www.nchr.org.jo/english/ModulesFiles/PublicationsFiles/Files/Mohammad%20M.%20AI-Tarawneh,%20Issa%20AI-Maraziq,%20Sabri%20Rubaihat,%20Muna%20Abu%20Sall_Juvenile%20Criminal%20Justice%20in%20Jordan_Studies%20and%20Researches_Juvenile%20Criminal%20Justice%20English.pdf.

¹⁵¹ See http://www.ilo.org/beirut/projects/WCMS_213470/lang--en/index.htm.

¹⁵² A person who has overstayed their residency permit is required to pay a fine of 1.5JD/day overstayed. Persons with overstay fines are not permitted to leave the country unless the fine is paid or an exemption from the Minister or the Council of Ministers is granted.

¹⁵³ According to the last report 2012 from General Statistics Department in Jordan based on their survey in 2010 the general poverty line is JD366.1 for a family of 5.4 and JD406.8 for a family of six.

¹⁵⁴ See Official Gazette No. 4937 of 16/11/ 2008.

differentiation was granted in part on the grounds that employers often provide accommodation for workers in this sector.¹⁵⁵

In 2008 the Labour Law was amended to extend to domestic migrant workers and workers in the agricultural sector.¹⁵⁶ Domestic workers are entitled to the same minimum wage as Jordanians (unless there is an agreement between Jordan and the country of origin),¹⁵⁷ and regulations issued in 2009 established maximum working hours and minimum periods of daily and weekly rest. Regulation No. 90 of 2009 and its amendments place specific obligations on the employers of domestic workers, including covering the cost of annual work permits, monthly salary, monthly telephone calls to a country of origin, and access to medical care. The regulation also upholds the worker's right to be treated with respect, privacy, appropriate living conditions and freedom of worship.¹⁵⁸ Protection against physical violence and sexual abuse is found in the Labour Law and Penal Code, as detailed in section 4.2.1.

4.4.2 Common problems

- Withholding and non-payment of wages is a significant problem despite efforts by the Minister of Labor to strengthen compliance by requiring that employers open bank accounts for domestic workers¹⁵⁹ and provide evidence that workers have received their benefits.¹⁶⁰
- Restrictions on movement and forced confinement. Such violations continue to be commonplace despite a regulatory amendment in 2011 that replaced the need for workers to seek their employer's permission to leave the place of employment, with a need to inform the employer.¹⁶¹ The situation is more deleterious for Egyptian employees who, since 2012, need written permission from their employer to leave Jordan on vacation or permanently.¹⁶² Such workers are at greater risk of exploitation and coercion by the employers.
- Verbal, physical and psychological abuse.
- Confiscation of official papers.¹⁶³
- Forced labour: while it is not stated in law, procedurally workers are unable to change jobs without the permission of their employer.¹⁶⁴

4.4.3 Exploitation and trafficking

Jordan has passed legislation criminalising human trafficking and forced labour,¹⁶⁵ as well as having ratified seven of the eight core Conventions of the International Labor Organization (with the exception of Convention 87, which guarantees freedom of association for migrant workers, including the right to form their own unions). Main criticisms include lack of compatibility between the relevant regulations and that the justice sector treats cases of forced labour as civil cases as opposed to offences falling under the Human Trafficking Act.¹⁶⁶ Moreover, the

¹⁵⁵ For an official definition for wages was adopted to cover the difference between wages and in kind payments, see <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

¹⁵⁶ Art.3 Labour Law No. 8 of 1996 amended by Law No.26 of 2010, Special Regulation No90 of 2009 amended by regulations No.11 of 2013 for Domestic Workers, Cooks, Gardeners and Similar Categories.

¹⁵⁷ The minimum monthly wage for domestic workers according to MOUs between Jordan and each country of origin are: Philippines USD400, Sri Lanka USD250, Bangladesh USD175-200 and Kenya USD200.

¹⁵⁸ Section 4 Regulation No. 90 of 2009 and its amendments.

¹⁵⁹ Such proof must be provided upon renewal of a work permit or when completing the legal procedures for a domestic worker being transferred to another employer, although in practice such requirements are not often applied.

¹⁶⁰ Art 46 of the Labor Law prohibits the employer from withholding any part of the wage, and requires the employer to pay the wage no later than 7 days after its due date. In 2011, 757 domestic workers filed cases with Tamkeen, 465 of which concerned total or partial salary withholding. *Between a rock and a hard place: The Status of Egyptian Workers and Migrant Workers in Jordan* (Tamkeen, 2012) pp.7, 35, 72-3.

¹⁶¹ While under Section 5/5 of Regulation 2009 amended in 2011, workers need only to inform their employer when they leave the location of employment, in practice domestic workers are required to obtain their employer's permission. See also 2011 amendment of Regulation No. 90/2009 on Domestic Workers, Cooks, Gardeners, and Other Workers Within that Sector.

¹⁶² *Between a Rock and a Hard Place: The Status of Egyptian Workers and Migrant Workers in Jordan* (Tamkeen, 2012) 5-6.

¹⁶³ In 2011, the NGO Tamkeen received 757 domestic workers cases, of which 530 workers had had their passports confiscated by employers or recruitment agencies. The confiscation of official papers violates Art 18 of the Passport Act No. 3 of 2002, Art 77(b) of the Labour Law No.8 of 1996 and its amending law No.26 of 2010, Art 222 of the Jordanian Penal Code and Art 12.4 of the International Covenant on Civil and Political Rights. See further 'Between a Rock and a Hard Place: The Status of Egyptian Workers and Migrant Workers in Jordan' (Tamkeen, 2012) p.6.

¹⁶⁴ Art.12(f)(2) Labour Law No. 6 of 1996: Employing the non-Jordanian worker for an employer other than the one specified in the permit unless he/she has obtained a permission of this from the competent authority in the Ministry.

¹⁶⁵ Art 9 of the Human Trafficking Act No. 9 of 2009 defines human trafficking as: "1. The recruitment, transportation, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation; (2) The recruitment, transportation, harbouring or receipt of a person under the age of 18 for the purpose of exploitation, even if such exploitation is not carried out by means of the threat or use of force or by the other methods enumerated in paragraph (1)." Art 3 of the Human Trafficking Act defines exploitation as: "The exploitation of others in forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs or prostitution or other forms of sexual exploitation."

¹⁶⁶ *Between a Rock and a Hard Place: The Status of Egyptian Workers and Migrant Workers in Jordan* (Tamkeen, 2012) p.73.

government's approach to catching and prosecuting offenders has been argued to be weak and the protection provided to victims insufficient.¹⁶⁷

4.4.4 Complaint mechanisms

Although mechanisms for complaint are stipulated in the law, access to justice is difficult:

1. Filing a complaint with a Labor Directorate can be difficult for migrant workers, particularly those whose movement is constrained and/or do not speak Arabic. For workers in rural areas, there may not be a Labor Directorate accessible, or strong social and kinship relations between employers and authorities dissuade them from reporting violations.¹⁶⁸
2. Filing a complaint through a telephone hotline operated by the Ministry of Labor can also be difficult for those who do not speak Arabic¹⁶⁹ and lines are also only open during working hours.¹⁷⁰
3. Difficulties associated with filing a complaint with police include communication (most police officers only speak Arabic) and that police are not well trained in the law applicable to migrant workers. Moreover, approaching the police places migrant workers at high risk of detention. Police exercise high preference towards employers and it is common practice to detain a worker until the employer arrives, even when there is no legal basis for such detention.¹⁷¹
4. Issues of cost, language and access dissuade migrant workers from approaching lawyers. As discussed in section 4.1, most civil cases cannot be lodged without a lawyer and navigating the criminal justice system is complex.
5. Jordan is not obligated to provide legal aid to migrant workers and there are limited legal aid options (see section 5.2). There is one organization that deals specifically with migrant workers, Tamkeen, which received 455 cases in 2013.

Crosscutting issues include lack of legal awareness and discrimination by the justice sector and administrative actors. Poor access to information on workers' rights and to complaints mechanisms are particular issues in the context of statutes of limitations set in the Labour Law that prevents workers from claiming unpaid salaries after two years and from claiming damages or compensation after three years.¹⁷² Employees are also often intimidated by threats that employers will have workers imprisoned if they make a claim against them. Such threats are not necessarily empty. If workers try to claim their rights, it is not uncommon for employers to file a complaint of theft against the worker. While this can be difficult to prove or disprove, employees, particularly if they have left the place of employment, can be detained for long periods.¹⁷³

If a complaint is registered with an authority, the closed nature of domestic work means that obtaining proof can be difficult (e.g. cases relating to being forced to work for more than the number of hours specified in law or withholding of salary). Translation services are not usually provided during trials, and where they are, problems of accuracy are frequently cited. Other criticisms include inconsistent application of the law and discrimination against migrant workers by judges and other justice sector actors.¹⁷⁴

This is exacerbated by weak a public sector response. The Ministry of Labor has five inspectors for domestic workers and they have been criticised for not following up on claims of abuse.¹⁷⁵ This is an issue of discrimination as well as the fact that they are usually employed within homes or isolated factories or other outside of the public eye.

¹⁶⁷ Committee on the Rights of the Child 'Concluding observations on the consolidated fourth and fifth periodic reports of Jordan' 14 June 2014 CRC/C/JOR/CO/4-5 (para 61).

¹⁶⁸ Between a rock and a hard place: The Status of Egyptian Workers and Migrant Workers in Jordan (Tamkeen, 2012) p.62.

¹⁶⁹ The Ministry has stated that complaints can be received in seven languages.

¹⁷⁰ Between a rock and a hard place: The Status of Egyptian Workers and Migrant Workers in Jordan (Tamkeen, 2012) pp. 7, 62.

¹⁷¹ Ibid pp.16, 62-3.

¹⁷² Labour Law Article 138(b): Any lawsuit for claiming any right given by this law including the wages of overtime hours whatever its source was may not be considered after two years have passed since the reason of claiming such rights and wages has risen; Art 93 Labour Law: No compensation petition shall be approved for any work injury unless submitted to the commissioner during two years from the date of its occurrence or from the date of the death of the injured employee, however the commissioner may approve the petition after two years have passed from the date of injury or death if the delay in its submission was resulting from a justified excuse including final instability of the results of injury. It is worthy to note that if these periods elapse, the workers do not lose their right to claim in the civil courts (they simply lose their right to claim under the labour law).

¹⁷³ Between a Rock and a Hard Place: The Status of Egyptian Workers and Migrant Workers in Jordan (Tamkeen, 2012) 63.

¹⁷⁴ 'Cooperating out of isolation: the case of migrant domestic workers in Kuwait, Jordan and Lebanon' ILO 2014 p.13; 'The Jordan labour market: needs for migrant workers and the views of its employers' (Tamkeen) p.6.

¹⁷⁵ The Ministry of Labour carries out inspection campaigns to identify cases of non-compliance and has recently strengthened its inspection program in the garment sector. Businesses have been closed down where serious violations have been detected; in 2012, five recruitment and employment offices were shut down for breaching the Labour Code and related regulations. 'Labour Compliance in Jordan's Apparel Sector, Actions to Date and Next Steps', Ministry of Labour, Amman, Hashemite Kingdom of Jordan, March 2007, available at: <http://www.mol.jo/report/ActionPlan-FINALMarch30.pdf>.

4.5 Refugees

Jordan has received three main groups of refugees. During the Arab-Israeli wars in 1948 and 1967, Jordan received Palestinian refugees which today number more than two million.¹⁷⁶ Due to an amendment of the Citizenship Law No. 56 in 1949, the majority of these refugees have or can avail of Jordanian nationality.¹⁷⁷ Waves of Iraqi refugees then entered Jordan in the 1990s in the aftermath of the 1991 Gulf War and also in 2003 following the US-led invasion. There are approximately 43,060 Iraqi refugees currently in Jordan. The most recent influx of refugees has resulted from the Syrian civil conflict that commenced in 2011. While initial refugees were absorbed into communities, in August 2012, steadily increasing numbers, lack of available housing and the strains created on public services led to a change of government policy whereby new arrivals were directed into camps. The largest camps are Zaatari, the Emirates Jordanian Camp in Zarqa and Azraq, which accommodate approximately 83,000, 4000 and 11,000 refugees respectively. Still, the vast majority of refugees reside in communities, mainly in Amman (approximately 172,791) and Irbid (approximately 144,214).¹⁷⁸

As of January 2014, in addition to more than 2 million Palestinian refugees, there were 641,915 refugees and 4,397 asylum seekers registered with UNHCR in Jordan.¹⁷⁹ This not only has a significant impact upon the demographic makeup but compounds existing security pressures, such as high unemployment, weak institutions and natural resource deficits, as well as creating new social norms and customs. Overcrowding is a serious problem in hospitals and schools, and the pressure on public resources such as water, electricity and waste management is projected to have long-term implications on food and water security.

Jordan is neither a signatory to the 1951 UN Refugee Convention nor to the 1967 Protocol, and it does not have national legislation concerning refugees. Jordan signed a MoU with UNHCR in 1998 (partially amended in 2014), which forms the basis of UNHCR's operations in Jordan.¹⁸⁰ Consequently, Iraqi and Syrian refugees are regarded as 'guests', 'temporary visitors' or 'foreigners', subject to Jordanian law.

4.5.1 Housing

The majority (around 90 per cent) of urban refugees rent private apartments, with the remainder being housed by hosts or relatives.¹⁸¹ While most have a rental agreement,¹⁸² the majority of disputes concern tenancy issues, such as arbitrary rental increases, failure by landlords to repair the rental property and disputes concerning the number of occupants. NGOs have reported that disputes concerning the non- or late-payment of rent have sometimes been resolved by a postponement agreement but with a penalty increase in rent; confiscation of belongings; forcing refugees to work for the landlord in lieu of rent; switching off utilities; and eviction. There have also been reports of accommodation being offered in return for marriage and evictions to make way for higher paying Syrian tenants.

4.5.2 Employment

Under the Labour Code, in order to work, refugees must obtain a work permit from the Ministry of Labor,¹⁸³ the requirements for which are onerous.¹⁸⁴ As a result, many refugees are employed in the informal labour market, which heightens the risk of exploitative practices and coming into conflict with the law, as well as having negative

¹⁷⁶ See <http://www.unrwa.org/where-we-work/jordan>.

¹⁷⁷ On 20 December 1949, Jordan amended its citizenship law allowing all Palestinians who had sought refuge in Jordan or remained in the Jordan-controlled west bank, to become citizens.

¹⁷⁸ <http://data.unhcr.org/syrianrefugees/country.php?id=107> (figures from Dec 2014).

¹⁷⁹ The majority of non-Palestinians are Syrian (92%) and Iraqi (7%), see <http://www.unhcr.org/pages/49e486566.html> It should be noted that without accurate census data, it is difficult to so to estimate the proportion of non-Jordanians in the Kingdom, however it is frequently cited that non-Jordanians outnumber Jordanians.

¹⁸⁰ Key provisions of the MoU include: Art 10: "In order to find durable solutions and to facilitate voluntary repatriation or resettlement in a third country it was agreed to except refugees from overstay fines and departure fees"; Art 12: "In order to respond to emergencies in the event of large influx it was agreed that the two parties will cooperate to provide quick response for emergencies including establishment of a joint emergency mechanism to make available food, water, sanitation, shelter and medical treatment and also to provide physical safety for refugees and asylum seekers".

¹⁸¹ The relevant law for refugees to rent or purchase property is Law No 47 of 2006 for the Leasing of Immovable Assets, and Their Sale to Non-Jordanian and Judicial Persons. Art 3 states that where the buyer's country of residence maintains a reciprocal relationship, foreign nationals are afforded the right of ownership of property within urban borders in Jordan for residential purposes but only after acquiring the required permission from the Minister of Finance or the General Director of the Survey Department.

¹⁸² Based on a standard and widely available template that generally favours the landlord.

¹⁸³ Art 12 Labour Law No.8 of 1996 and its amendments. Note that On 11 January 2011, the Deputy Prime Minister/Minister of Interior opened more work sectors for Iraqis in Jordan. It followed General Pardon Law No. 15, issued on 1 June 2011, which waived overstay fees –thereby allowing Iraqis to regularize their status, secure residency and apply for work permits (see also the Regulation of Employment Permits Fees for Non-Jordanian Workers Issued under Article 12(c) of the Labour Law No. 8 of 1996 published in the official Gazette No. 5291 dated 16 June 2014. Art 8 MoU between the Government of Jordan and UNHCR (1998): "In order to enable a refugee to provide a living for his family it was agreed to accord a refugee who is legally residing in Jordan to work for his own account whenever the laws and regulations permit"; art 9: "Refugees holding degrees recognized by the competent Jordanian authorities could practice liberal professions if the laws and regulations permit".

¹⁸⁴ For example, an employer must demonstrate that a job requires experience or skills unavailable among Jordanians.

consequences for the broader economy.¹⁸⁵ Some reports suggest that up to half of Syrian refugees in urban settings have at least one family member employed.¹⁸⁶ Child labour is also a problem, exacerbated by the perception that children are more likely to be treated leniently by authorities. Common areas of dispute include: low, reduced and non-payment of wages, excessive working hours, and denial of days off.

4.5.3 Access to information

Weak access to information is a serious issue, especially for Syrian refugees. Key informational deficits include: their protection against non-refoulement, registration (procedures, entitlements and implications of non-registration), services (health care or legal advice), civil documentation, and freedom of movement (procedures to exit the camps and 'bail out'). Upon arrival, UNHCR and the International Organization for Migration provide basic information to refugees concerning the registration and entitlements; within camps information is disseminated through community mobilisers, UNHCR administrative centres and police stations. Access to information is more difficult for urban refugees, who are widely dispersed and sometimes hide, and for women and the elderly who have literacy and mobility constraints. There is, however, a UNHCR helpline that is highly utilised. A key constraint is that refugees are most receptive to direct information provided from reputable sources (such as United Nations agencies) however this form of information dissemination is slow, time-consuming and costly.

4.5.4 Identity documents

At the beginning of the Syrian crisis, on arrival in Jordan, authorities took personal documents from refugees and a receipt was issued. When exiting Jordan, refugees could reclaim such documentation. Today, iris scanning has replaced the need for document retention by authorities. Refugees housed in a camp can obtain proof of identity through UNHCR, and through this can access education, healthcare and food and non-food items. In 2014 the government established both a Personal Status Department and Shari'a court in Zaatari camp, which facilitates the registration of marriages, deaths and issuance of birth certificates. ARDD-Legal Aid has also established an office in the camp to support the government in dealing with legal issues faced by the Syrian population; the office employs four full-time lawyers.¹⁸⁷

Urban refugees are more likely to lack an identity document. They may have entered Jordan irregularly without any documentation, have left the refugee camp irregularly (after having had their documents taken upon arrival), or they may have had their documents confiscated by a landlord or employer. There are two systems for such persons to obtain an identity document. First, refugees can register with UNHCR. This process usually takes three-four months, after which time a family registration certificate is issued that is valid for six months.¹⁸⁸ The process then needs to be repeated. This system leaves refugees unregistered for protracted periods, during which time they may be unable to access services and are vulnerable to detention. Second, refugees can (and in fact are required to) register with the Jordanian authorities through the police. This, however, requires the presentation of an identity document (which refugees may not possess), and refugees may be fearful to approach the police.

Without an identity document, refugees are at risk of administrative detention and being denied access to health and education services, and food and cash assistance.¹⁸⁹ Refugees can access public schools if they are registered with UNHCR and have a card from the Ministry of Interior.¹⁹⁰ UNHCR provides cash assistance to at-risk families; the number being provided with cash assistance was 23,200 in December 2014 (21,000 Syrian families and 2,200 families of other nationalities). NGO services are not stringently reliant on UNHCR registration, but generally require some form of identity to be presented (UNHCR registration, bail out pass, passport etc.).

Women who lack identity documents, for example where civil documentation has been taken, never existed or has been lost, are particularly vulnerable. An increasingly common situation is the practice of informal marriage, either because the parties to the marriage lack identity documents, a desire to marry under the legal age, or because the parties regard registering the marriage as unnecessary. Without proof of marriage or a family booklet, any woman in Jordan is at-risk of prosecution or detention. Moreover, if such a woman gives birth, she can be referred to the

¹⁸⁵ Employers of informal labour are vulnerable to petty rent seeking, cannot buy insurance and are vulnerable to shocks. Employees cannot avail of labor laws, work in unsafe conditions, suffer from labor insecurity, and cannot access social security or pensions.

¹⁸⁶ Oxfam, "Integrated Assessment of Syrian Refugees in Host Communities – Jordan".

¹⁸⁷ See further <http://ardd-jo.org/node/389>.

¹⁸⁸ Refugees are required to prove identity in order to make an appointment to register. A range of identity documents are accepted including bailout certificates for those who left Zaatari formally and ration cards for those that left unofficially. UNCHR indicates that a lack of documents is not a bar to registration, although a more in-depth interview and process may be required. There is a fast-track registration process for urgent cases. Approximately 60% of refugees registering with UNHCR lack identity documents either because they did not have documents when they arrived in Jordan, or they were taken by authorities (this figure may not be accurate as some refugees are aware of the policy and therefore hide their documents).

¹⁸⁹ Note that free access to public health services was revoked in November 2014, however there are still some hospitals that offer free medical care.

¹⁹⁰ Refugees also need a valid card from the Ministry of Interior after registering with UNHCR to access schooling. Note that in August 2007 (and each year thereafter), the Government granted all Iraqi children, regardless of their legal status, the right to enroll in public and private schools for the 2007/2008 academic year.

police or is at risk of having her child taken into protective custody, particularly if the father is absent. In the context of the Syrian crisis, sensitisation by UNHCR with the Ministry of Health and hospitals now means that women who give birth without documentation are not subject to detention or referred to the police, however, they may face difficulty obtaining birth certificates.¹⁹¹ Without a family book or marriage certificate, a woman who gives birth in a Jordanian hospital is issued with a status report or discharge statement, but not a birth certification (if, at a later date, such documents are obtained, she can return and receive a birth certification).

4.5.5 Gender-specific violations

The principal protection concerns relate to early marriage, which is a common practice in Syria, forced marriage and transactional marriage.¹⁹² There have also been reports of trafficking, exploitation and forced prostitution, however the full extent of the problem is unclear.¹⁹³ The inactivity of refugee men creates a heightened risk of gender-based violence. In responding to such violations, female refugees are covered by the same laws, and face the same obstacles, as Jordanian women (as discussed in section 4.2.1).

4.5.6 Access to justice

The main disputes involving refugees relate to employment and housing. While there are currently few documented cases of criminal and violence issues, there is speculation that this will increase over time.¹⁹⁴

Within the camp, the options for resolving disputes are the police, Personal Status Department and Shari'a court, the ARDD legal aid clinic, and the informal/tribal justice system. Outside of the camps, the options are approaching the formal justice system or an NGO legal aid service provider. The MoU between Jordan and UNHCR (1998) provides that a refugee shall have free access to courts of law and in order to enjoy this treatment has the right of litigation and legal assistance as accorded to the nationals wherever that is possible.¹⁹⁵ There is evidence, however, that refugees are disinclined to approach the formal justice system due to fears of discrimination and creating friction with the host community. Refugees who lack documentation are particularly unlikely to contact authorities due to the risk of detention. Other barriers include lack of information on rights and how to access them and the costs of engaging with the formal system. It should be highlighted that both exploitative labour and tenancy practices are exacerbated by refugees' lack of knowledge regarding their protected status and their vulnerability to threats from employers and landlords that they will be returned to Syria. These constraints may explain the low caseloads indicted by legal aid providers. In practice, it is likely that many issues are left un-resolved or are dealt with informally.¹⁹⁶

4.6 Religious minorities

Besides the vast majority Muslim population (estimated at 95-97 per cent of the population), Jordan is home to a Christian minority (around 3 per cent of the population). While Christianity in Jordan includes a broad variety of traditional and less traditional denominations, almost all Muslims belong to the Sunni branch of Islam. The number of Shias traditionally residing in the country is very small, and might number only a few hundred persons. The Bani Maaroof (usually referred to as Druze), constitute another small religious minority population (up to 15,000 people, all of whom are registered as Muslims). Jordan also has a community of Baha'is, the number of which ranges between a few hundred to 1,000 people.¹⁹⁷

4.6.1 Legal framework

Article 2 of the Jordanian Constitution (1952) stipulates that the state religion is Islam, and article 28(e) specifies, inter alia, that the King must be Muslim. Despite the fact that Islam is the country's official religion, article 6 declares that citizens of all religions must be treated equally before the law.¹⁹⁸ Article 105 stipulates that Shari'a courts are responsible for matters pertaining to the personal status of Muslims. The affairs of non-Muslims are governed under the Formation of Christian Sects Councils: Law No. 28 of 2014 published in the Official Gazette No. 5299 of

¹⁹¹ See further <http://unhcr.org/womanalonemedia/>.

¹⁹² Including Syrian female minors being married to older men in return protection and financial support, or in order to leave Zaatri.

¹⁹³ See further <http://www.unwomen.org/en/digital-library/publications/2013/7/syrian-refugees>.

¹⁹⁴ Host communities often perceive refugees as causal factors in rising unemployment and accommodation costs. Such sensitivities are not necessarily misplaced and a number of reports indicate growing numbers of disputes at the community level. Tensions have also been noted regarding pressures on local services and the allocation of development support. See further, Women's Commission for Refugee Women and Children, "Living in Fear Protection and Assistance Needs of Iraqi Civilians in Iraq and Jordan," February 2003.

¹⁹⁵ Art 7.

¹⁹⁶ The Syrian refugee community is dispersed with no clear leadership structure, with the result that individuals are unable to draw on the support of their broader community to assist in resolving disputes informally.

¹⁹⁷ UN Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Addendum: Mission to Jordan*, 27 January 2014, A/HRC/25/58/Add.2 (para 15), available at: <http://www.refworld.org/docid/52fa1e214.html> [accessed 23 December 2014]; All estimates remain vague and controversial, since established statistical information concerning the religious composition of Jordanian society does not exist.

¹⁹⁸ Art 14 of the Jordanian Constitution states, "The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such exercise is inconsistent with public order or morality."

1/9/2014.¹⁹⁹ Non-Muslims have the right to mandate the affairs of personal status,²⁰⁰ social and educational institutions. The personal status laws governing non-Muslim sects are applied but are not published in the Official Gazette. Non-Muslim religious communities that have been recognised by the government are entitled to separate religious tribunals to handle issues of personal status as articulated in Article 109. Such recognition implies a number of practical privileges, including tax exemption and financial subsidies, as well as the possibility of deciding legal matters concerning personal status in their own ecclesiastical tribunals, largely on the basis of their respective canon laws.

4.6.2 Inheritance

One exception within the pluralistic system of personal status laws concerns inheritance matters. In this area, only Shari'a law applies. Shari'a inheritance law is also binding on the jurisdiction of the various Christian tribunals on issues of inheritance.²⁰¹

4.6.3 Process of religious recognition

When responding to a request for full recognition as a religious community on an equal footing with traditional churches, the Government generally consults with the Council of Churches, even though law does not require this.²⁰² From a human rights perspective, it could be argued that questions concerning the recognition or registration of a group should not be dependent on the consensus of other denominations, but should be decided on the basis of transparent criteria applicable to all groups. Recognised religious communities include the Greek Orthodox Church, the Roman Catholic Church ("Latins"), Greek Catholics ("Melkites"), the Maronite Church, the Anglican Church, the Syrian Orthodox Church and the Seventh-day Adventists.²⁰³

Each person's religious adherence is registered on an identity card. With the issuance of identity cards now fully computerisation, recipients are restricted to the options of Islam, Christianity or no religion (indicated by a dash or a few dots). The fact that such documents play a crucial role in administrative dealings – such as the enrolment of children in school, applications for public positions, participation in elections or applications for a visa – renders holders vulnerable to discriminatory treatment on the basis of their religion or belief.²⁰⁴

4.6.4 Recognised religious minorities: Christian minority

The Jordanian Government remains overwhelmingly tolerant of the Christian minority, which is allowed to worship publicly. Under the Constitution (1952), nine of 110 seats in the Chamber of Deputies are reserved for Christians.²⁰⁵ Christians are, however, prohibited by law from proselytising to Muslims. The government does not recognise Christians who have converted from Islam, and for such legal purposes as property and family law, continues to consider them as Muslims. Christian pupils are not required to attend Islamic teachings in state-run schools.²⁰⁶

Some non-recognised Christian denominations, such as the Baptists or the Pentacostalists, have registered under the law of immovable property, which gives them a status largely comparable to registered associations.²⁰⁷ Although having the status of a collective legal personality, which is important for organising community matters in a sustainable manner, they are disadvantaged when compared to officially recognised churches. Besides the symbolic impact of unequal status, practical problems arise with respect to personal status (marriage, divorce, custody of children and inheritance issues), because non-registered communities do not have their own religious tribunals.²⁰⁸

¹⁹⁹ This law replaced the Formation of Councils of Non-Muslim Religious Communities Law No. 2 of 1938 published in the Official Gazette N. 594 in 2/9/1938.

²⁰⁰ Personal status comprises matrimonial cases, divorce and custody of children, succession, confirmation of wills, change of religious affiliation, and the constitution of religious endowments.

²⁰¹ UN Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Addendum : Mission to Jordan, 27 January 2014, A/HRC/25/58/Add.2 (para 35), available at: <http://www.refworld.org/docid/52fa1e214.html> [accessed 23 December 2014].

²⁰² *Ibid.*, para 24.

²⁰³ *Ibid.*, para 22.

²⁰⁴ *Ibid.*, para 26 and 27.

²⁰⁵ *Ibid.*, para 17. Unlike in some other countries, in which minorities constitute separate electorates, the Jordanian election system provides for a single, unified electorate, which implies that Muslims may also vote for Christian candidates and vice versa; reportedly, this also happens in practice. While a formal quota concerning the religious composition of the cabinet does not exist, Christians have usually held positions in the Government alongside Muslims. They also hold high-ranking posts in other State institutions, such as the police force, public media and universities.

²⁰⁶ Minority Rights Group International, World Directory of Minorities and Indigenous Peoples - Jordan: Christians, 2008, available at: <http://www.refworld.org/docid/49749cfc46.html> [accessed 23 December 2014].

²⁰⁷ United States Department of State, 2013 Report on International Religious Freedom - Jordan, 28 July 2014, available at: <http://www.refworld.org/docid/53d9075e14.html> [accessed 14 December 2014].

²⁰⁸ *Ibid.* In such situations, members of non-recognized Christian churches have the option of either submitting their issues to the ecclesiastical tribunals of a denomination to which they feel some attachment or resorting to a civil court. While resorting to other ecclesiastical tribunals requires an appeal to the voluntary hospitality of the relevant community, civil courts by and large operate on the basis of the tenets of Islam.

4.6.5 Unrecognised religious minorities: Bani Maarroof (Druze) and Baha'i

The government does not recognise the Druze or the Baha'i faiths, but allows members of these faiths to practice their religions. On official identification documents, Baha'i have encountered difficulties trying to register with the government under the category of a "society". On official identification documents, Baha'i have been either recorded as Muslims, the space is left blank, or it is marked with dashes. The Baha'i do not have their own court to adjudicate personal status matters; such cases are heard in civil registrars, Shari'a courts or other recognised religious courts upon request. The Department of Civil Status and Passports does not officially recognise marriages conducted by Baha'i assemblies, but does issue family books to Baha'i, allowing them to register their children. Baha'i schools and places of worship are not recognised by the Government. While there are two recognised Baha'i cemeteries, the cemetery in *Adasieh* is registered in the name of the Ministry of *Awqaf* and Islamic Affairs, despite requests to register it under the Baha'i Faith.²⁰⁹

4.6.6 Apostasy from Islam

The government's application of Shari'a law has been argued to infringe upon the religious rights and freedoms laid out in the Constitution by prohibiting conversion from Islam. This also includes re-converts who, after having converted from Christianity to Islam, later wish to convert back to their original religion.²¹⁰ Although conversions away from Islam are not criminalised, the civil law implications of such conversions have punitive effects. Conversion from Islam can lead to the dissolution of marriage, loss of custody of one's own children and exclusion from inheritance. On their identity cards, converts are treated as not having any religion, even though they may see themselves as belonging to another religion.²¹¹

If a Christian male converts to Islam, his underage children (those under 18 years of age) are automatically registered as Muslims, while his adult children may remain Christian. This has led to situations in which children, who had never received Muslim instruction, had to pass a school exam on Islamic teachings. If a Christian woman converts to Islam while being married to a Christian man, her husband must also convert to Islam in order to remain married, on the basis of the assumption that a non-Muslim man cannot marry a Muslim woman.²¹²

4.6.7 Inter-faith marriages

Law prohibits the marriage of a Muslim woman to a non-Muslim man, unless the man converts to Islam; and a Muslim man cannot marry a woman who is non-Muslim, Christian or Jewish.²¹³ Restrictions also extend to the rights of persons in inter-faith marriages. A Christian woman retains custody of her children until they reach the age of seven only, whereas a Muslim mother retains custody until 14 years.²¹⁴

4.6.8 Religious needs of refugees

The circumstances in which Syrian refugees housed in camps face may affect their freedom of religion or belief. Reportedly, virtually all of the inhabitants of the camp are Sunni Muslims, and places of worship for other denominations, do not exist.²¹⁵

4.7 Torture and special detention

While not connected to a specific vulnerable group, it is important to note that detainee treatment is a serious protection issue in Jordan, particularly those held in the General Intelligence Directorate and Public Security Department. Specific concerns include detainees not being provided fundamental legal safeguards including prompt access to legal counsel (particularly between moment of arrest and when they appear before a prosecutor), to be informed of their rights including the charges against them, and to appear before a judge within a reasonable

²⁰⁹ United States Department of State, *2013 Report on International Religious Freedom - Jordan*, 28 July 2014, available at: <http://www.refworld.org/docid/53d9075e14.html> [accessed 14 December 2014].

²¹⁰ Ibid.

²¹¹ UN Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Addendum : Mission to Jordan*, 27 January 2014, A/HRC/25/58/Add.2 (para 32), available at: <http://www.refworld.org/docid/52fa1e214.html> [accessed 23 December 2014].

²¹² Ibid, para 33 and 34; The personal status laws have also far-reaching implications for the rights of children, in particular their freedom of religion or belief as enshrined in article 14 of the Convention on the Rights of the Child (which Jordan holds a reservation to).

²¹³ Art. 28 Personal Status Law (No. 36 of 2010).

²¹⁴ Article 172(b) Jordan Personal Status Law No.36 of 2010. But if a non-Muslim women become Muslim, her custody rights are restored according to art 174.

²¹⁵ UN Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Addendum : Mission to Jordan*, 27 January 2014, A/HRC/25/58/Add.2 (para 14), available at: <http://www.refworld.org/docid/52fa1e214.html> [accessed 23 December 2014]. It should be noted that the government and various religious communities have repeatedly expressed their concern that the politicisation of religion in conjunction with religious extremism - which has been marginal in Jordan to date - could become increasingly influential. Against this background, Jordan's role as a voice of religious moderation in the region - as evidenced in the 2004 "Amman message" that presents Islam as a religion that promotes amicable relations with adherents of other faiths - is increasingly important. UN Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Addendum : Mission to Jordan*, 27 January 2014, A/HRC/25/58/Add.2 (para 13), available at: <http://www.refworld.org/docid/52fa1e214.html> [accessed 23 December 2014]; see also <http://ammanmessage.com/>

time period.²¹⁶ There are also reports of torture and ill-treatment in detention centres along with there being no genuinely independent complaints mechanisms to deal with cases of alleged torture or ill-treatment by public officials, and a weak approach towards investigation and prosecution.²¹⁷ A final criticism concerns exculpatory provisions for acts performed in accordance with orders from a higher-ranking person.²¹⁸

5. Supply of legal services: Volume, options and constraints

5.1 The right to legal counsel

The Jordanian Constitution upholds the right of individuals to access the courts through article 101(1): "The courts shall be open to all and shall be free from any interference in their affairs." There is not, however, an explicit right to a defense. With respect to representation, the relevant provisions are found in Constitution article 102, which grants the right of an accused person to a lawyer of his or her choosing during the investigation and trial stages; article 22 of the Code of Criminal Procedure, which provides that a lawyer has the right to attend the interrogation unless the investigation is confidential or urgent; and article 63 of the Criminal Trial Procedures Law which upholds the right of an accused not to respond to an accusation without the presence of a lawyer and obliges the public prosecutor to advise an accused of this right.²¹⁹

5.2 Legal assistance and services

5.2.1 State legal aid

Under national legislation, indigent criminal defendants accused of serious crimes (crimes for which the defendant could be sentenced to capital punishment, life imprisonment or hard labor) are entitled to state-appointed counsel.²²⁰ While the state follows these provisions (albeit not consistently), the restrictive eligibility criteria mean that defendants benefiting account for very few cases annually. A survey conducted by JCLA of 1,254 criminal cases adjudicated between 2008-2010 found that 49.8 per cent of cases involved serious crimes; of these, in 88 per cent of cases the defendant appointed a lawyer, in 6.4 per cent the defendant was indigent and a lawyer was appointed by the state and in 5.6 per cent the defendant was indigent but a lawyer was not appointed by the

²¹⁶ Art 13 of the Rehabilitation Centers Law No. 9 of 2004 stipulates an inmate has the right to "contact and meet his lawyer whenever needed, inform his family of his place of detention, communicate with his family and friends and receive visitors unless forbidden by the director of the centre, and to contact his country's diplomatic or consular representative if the inmate is a foreigner"; Art 100 of the amended Criminal Proceedings Law No. 16 of 2001 sets the period of detention of an accused person at a police station to be 24 hours, after which the accused shall be referred to the concerned public prosecutor as the legal authority in charge of the investigation; Art 63 of the Criminal Proceedings Law provides the right of the defendant to a defence attorney; Art 66(2) of the same law prohibits the public prosecutor from preventing a lawyer from contacting the defendant.

²¹⁷ Art 24 of the Rehabilitation Centers Law No. 9 of 2004 states that no person with signs of any type of injury may be admitted to correctional and rehabilitation centres except after being examined by the forensic doctor to obtain a legal medical report and conduct the necessary investigations. Art 8(2) of the Constitution states that "Any person who is arrested, placed in custody, detained or subjected to any restriction on his or her liberty shall be treated with dignity, safeguarded from any form of torture or bodily or mental harm and held in no place other than a legally designated holding facility. Any statement obtained from any person by means of torture or the use of grievous harm or threats shall be deemed null and void"; Art 208 of the Penal Code No. 16 of 1960 and its amendments states that torture would be criminally classified as a felony, its penalty from six months to three years against exercising any kind of torture to obtain confession of a crime or information in connection thereof. Such a penalty may ascend to temporary hard labour punishment and an extended period of imprisonment if the torture has led to serious illness or injury. It also states that such punishment shall not be subject to suspension or mitigation reasons. Torture has also been criminalized under article 41 of the Military Penal Code No. 58 of 2006. In accordance with art 106 of the Criminal Proceedings Law and art 8 of the Rehabilitation Centers Law, persons should be confined in the correctional and rehabilitation centres which are subject to judicial inspection. The Minister of Justice or his authorized representative, who should be a competent and experienced officer of the Ministry, the Chief Public Prosecutor, the heads of any of the Courts of Appeal, First Instance and the Higher Court of Felonies, the Attorney General and members of the public prosecution office in their respective areas of competence, may access the centre to ensure that there is no illegally retained inmate and to follow up on any complaints by an inmate regarding any violations committed against him. Note that the Convention on Torture was published in the Official Gazette in 2006, thereby including the Convention in national legislation, and enforceable in national courts.

²¹⁸ Art 61 Penal Code: A person is not criminally liable for acts committed in one of the following instances: 1. While implementing the law. 2. Obeying an order commanded by a lawful authority, unless the action is manifestly unlawful.

²¹⁹ See also arts 232 and 175 of the Criminal Trial Procedures Law which guarantee the accused the right to defend himself and provide counter evidence.

²²⁰ Under Art 208 of the Criminal Trial Procedures Law, a judge should assign counsel to criminal defendants who are indigent and who are accused of serious crimes (crimes under which the defendant could be sentenced to capital punishment, life imprisonment or hard labor). The defendant must prove that they cannot afford attorney fees and, if proof is provided, the public treasury will cover the fees (provided they do not exceed five pounds per day): Art 208 (1). After the public prosecutor submits the case's file to the court and in cases punishable by the death penalty or life imprisonment with hard labor or life detention the court's chief judge or the judge he/she delegates for such function shall bring the indicted person and ask him/her if he/she had appointed an attorney for his/her defense. If the indicted did not appoint an attorney and his/her financial status does not allow him/her to do so, the court's chief judge or his/her deputy shall appoint a defense attorney for the indicted person. (2) The attorney who is appointed according to the procedures stated in the previous paragraph shall be paid from the state's treasury the amount of ten Dinars for each hearing he/she attends provided that the total attorney fees shall not be less than two hundred Dinars and not more than five hundred.

state.²²¹ Further concerns include that such assistance is limited to the duration of the trial and the absence of an effective system to monitor the quality of legal aid provided.

5.2.2 Jordan Bar Association

The Bar Association Law outlines the goals of the Association as including the provision of legal aid,²²² article 7/100 vests the President with the authority to assign any lawyer for pro-bono service one time per year, including for the defense of an indigent person.²²³ In practice, such provisions are rarely implemented. Moreover, lack of skills and understanding on the part of lawyers regarding the key issues affecting and the vulnerabilities of poor and marginalized groups, coupled with no system of quality control, mean that this pro-bono system may not be the best approach to enhancing access to justice for these groups. A further issue is that the Bar Association is centralised with no formal structures at governorate level, creating accessibility constraints.

5.2.3 Non-government legal aid service providers

In recent years, the number of non-government agencies providing legal counseling and representation services geared towards poor and marginalized groups has grown significantly. While such organizations account for the vast majority of representations for indigent persons, programming is complicated by several factors.

A first group of issues is that the sector lacks a sound governing framework to facilitate and regulate service delivery; this manifests in an unstable operating environment and rules (such as no exemptions from court fees or taxation) that restrict the provision of legal services. There is no legislation dealing with the provision of legal aid by civil society. The Law on Charitable Organizations (No. 51 of 2008) imposes procedures that restrict the scope of NGO work and activities, including by requiring Prime Ministry approval for projects that receive funding. The law also limits the growth and presence of NGOs by applying restrictive criteria for the establishment of independent branch offices. Growth of the civil society sector is also limited by a preference among donors for top-down reforms, particularly legislative reform and justice sector training.²²⁴

Bar Association rules regarding the employment of lawyers at legal aid offices have been used to de-register legal aid providers, although there is speculation among some practitioners that this has been due to their engagement on politically or otherwise sensitive matters. A further issue concerns rules regulating competition that prevent the advertising of legal aid services, restricting outreach and awareness raising.²²⁵ A causal issue is the oversupply of private legal services in Jordan.²²⁶ Free legal services (usually funded by foreign governments and development organizations) are regarded as taking work away from Jordanian lawyers. The irony is that most persons approaching NGOs are indigent or marginalized, and therefore are more likely to leave a matter unresolved or refer it to the tribal justice system, than to approach a private sector lawyer.

The second group of issues is that, apart from a core group of service providers, legal aid NGOs lack capacity in key areas including evidence-based strategy development, quantitative monitoring and evaluating methods, and the development and execution of targeted advocacy strategies. A closely related issue is the difficulty identifying and securing the long-term commitment of qualified and experienced lawyers willing to work in the non-profit sector; this creates restrictions with respect to scale up, institutional memory and service continuity. Lawyers who are prepared to work in the pro-bono sector rarely have existing skills in gender issues or human rights, and lack awareness regarding the vulnerabilities and special needs of the disadvantaged. The activities of individual key legal aid service providers are not aligned under a common strategy and there are no mechanisms facilitating programmatic coordination and an integrated approach. NGO programs tend to be driven by donor funding priorities as opposed to a clear, shared and strategic vision for legal empowerment. As a result, programs overlap and sometimes work at cross-purposes, while other important programmatic fields are unaddressed. Other

²²¹ The sample comprised of 1354 adjudicated criminal cases, dates of adjudication range between 2008 till 2010, distributed over 37 courts in different governorates in the North, Center and South governorates. Out of these cases, 16.4% were heard by the Felonies Court, and 21.1% were heard by the Grand Felonies Court.

²²² Art 5 Jordan Bar Association Law No.11 of 1972 and its amending law No. 25 of 2014: "provides its members professional work and organizes cooperation in practicing law and proving legal aid for non-able citizens".

²²³ Art 100(a) Jordan Bar Association Law No.11 of 1972 and its amending law No. 25 of 2014: "the head of the Bar Association has the authority to assign any lawyer for pro bono service once every year and this pro bono service includes one of the following: ... (7) - to defend any person that the head of Bar Association was able to verify is financially unable and cannot afford to pay the lawyer's fees and in this case the court will obligate the opposing party to pay the lawyer's fees if the opposing party is found to be not rightful or the court case raised unjustly or found to be lying".

²²⁴ It should be noted that various NGOs provide psychosocial, legal and health advice to children, women and other victims of violence and abuse such as the Family Education and Counselling Centre, and the Dar al-Aman which also provides temporary residential care to child victims of abuse. The Family Reconciliation Home, opened on 17 January 2007, accommodates women and children up to three years (established pursuant to Regulation No. 48 of 2004 on family welfare homes, which was issued pursuant to Article 4 of Ministry of Social Affairs and Labour Act No. 14 of 1956, as amended).

²²⁵ Clients generally become aware of services through awareness raising clinics, ad hoc CSO referral systems, word of mouth, and social media.

²²⁶ In 2013, Jordan had 16,000 registered lawyers "JordanInfoV1.0 6.0 - Jorinfo," accessed May 2, 2013, available at: <http://jorinfo.dos.gov.jo/jordaninfo/home.aspx>.

concerns include that the majority of service providers offer legal counseling only and not representation services, and that service provision is concentrated in Amman. Many organisations claim to undertake legal empowerment work but act mainly as referral services to other groups, complicating the collection of reliable data on demand for and supply of legal services to the poor. A final challenge is lack of trust towards legal aid service providers, particularly those that receive foreign funding. Many CSOs have built up good relations with communities, however this has taken long periods and has been somewhat hampered by restrictions on advertising and communicating their services.

5.3 The work of legal empowerment organisations

Most legal empowerment organisations adopt a model that combines awareness-raising, legal counseling and representation, and advocacy. The information appearing below was provided by the five principal legal empowerment and legal aid service providers in Jordan: ARDD Legal Aid (ARDD), Jordanian Women's Union (JWU), Justice Centre for Legal Aid (JCLA), Mizan and Tamkeen Fields for Aid (Tamkeen).

5.3.1 Rights awareness raising

Each of the principal legal empowerment organisations undertakes rights awareness raising. Target audiences include: women, refugees, migrant workers, juveniles, persons with disabilities and partner NGOs offering social and livelihoods assistance services. The approach taken by several organizations is quite sophisticated, with dedicated modules selected based on caseload analysis, research and feedback from beneficiaries and emerging issues of relevance to target groups (such as amendments to key legislation). The work of other organisations is more ad hoc and grounded on a loose understanding of the law. Sessions generally take the form of an interactive lecture followed by question and answer sessions. Key challenges include:

- In sessions focusing on women's rights, participants are usually highly informed regarding Shari'a law. They tend to conceptualise problems in terms of religious rights and obligations, as opposed to a rights-based or secular legal approach. Many NGO trainers do not have the specific knowledge or training required to be able to formulate sessions to respond to this context.
- The awareness problem is both wide and deep in Jordan; the vast majority of people know very little about their legal rights. The dominant methodology of small group discussion sessions is therefore a slow and inefficient means of raising awareness. This is complicated by the fact that Jordanian culture is very much dialogue-based; there is significant evidence that rights holders want to hear information directly from a respected and authoritative source, as opposed to through print materials or awareness sessions.
- There is a wide gulf between awareness raising and potential action in Jordan. As discussed in earlier chapters there are legitimate reasons people may not want to resolve a legal issue in court. This is particularly the case for marginalised groups such as women who face social and cultural barriers accessing just solutions. In cases such as domestic violence or sexual assault, the associated risks of approaching the legal system often far outweigh the potential benefit. Rape victims face a very real threat of retributive violence and for victims of domestic violence, divorce can lead to family excommunication, poverty and homelessness. Finally, there is still a void between what the legal system is supposed to provide and what it actually does provide, particularly in terms of consistent application of the law and discrimination against vulnerable groups. Legal service providers need to take care that encouraging vulnerable groups to approach the justice system does not exacerbate disenfranchisement. ARDD legal aid has taken a particularly innovative approach piloting awareness sessions that wed psycho-social techniques (such as assertiveness and problem-solving) with legal messages. The aim was to provide active empowerment tools for persons unlikely to take legal action for social, cultural or pragmatic reasons.

	2013	2014	Average participants per session
ARDD	24 sessions		25-30
JCLA	816	1540*	25-30
Tamkeen	27	35	25
JWU			
Mizan	NA	4**	
Total			

* Data until November 2014

** Mizan conducts larger-scale, policy-oriented awareness sessions focusing on e.g. the death penalty, exculpatory provisions for gender violence, women's rights, and human rights. Target audiences include policy makers, lawyers, judges, students, activists and the international community.

5.3.2 Legal aid and counseling

The five principal legal empowerment organizations have 49 clinics covering most of the Kingdom. Many have a main office in Amman with clinics co-located with a small local NGO that provides complementary services (such

as psycho-social services, empowerment assistance, training or child-friendly spaces). Lawyers provide counseling and (if required) representation to eligible persons. ARDD for example, applies financial and non-financial criteria to identify whether a client is eligible for services (they assist both indigent persons, as well as specific groups such as refugees, regardless of their wealth). JCLA serves all groups in Jordan with intake criteria based on financial indicators, with the exception of recurring violations, sexual violence and land cases (which they do not receive).

The extent to which organisations have developed policies and safeguards to protect the privacy of clients; 'do no harm' techniques, gender-sensitive interviewing techniques and rights-based approaches is inconsistent and remains a gap area. JCLA, for example, has a referral system in place so that if counseling identifies a person or persons with extreme vulnerability characteristics, they can be linked to an organization providing medical and psycho-social services, the Department of Social Welfare or international organizations such as UNICEF. Others have no such protocols in place. Likewise, systems for monitoring and quality assurance vary in terms of quality and comprehensiveness.

The question of paralegals is contentious in the Jordanian legal context. Some organisations purport that paralegals are not supported under the legal framework. Others feel that investing in paralegals is not strategic. JCLA, for example, cites the high numbers of unemployed lawyers in Jordan and has piloted a program using law graduates (who are obligated to undertake two years of training) as an effective and cost efficient means of supplementing legal capacity. The counter-argument is that it is dangerous to adopt models where legal knowledge and responsibility for conveying legal information is vested exclusively in the legal elite, and that the scope of the problem as well as Jordan's tribal culture requires that organisations empower all types of community leaders with legal knowledge. ARDD has piloted this approach by training different groups as paralegals including law students, women community leaders and tribal leaders.

5.3.3 Strategic litigation

Tamkeen, JCLA and ARDD all state that they undertaken strategic litigation. Tamkeen, for example, has tried to activate underutilized national legislation that protects migrant workers' rights and safeguards them from human trafficking. It has also lodged cases involving withholding of passports to draw attention to this widespread phenomenon. Most recently, it has lodged a case regarding the legality of administrative detention. Similarly, JCLA is currently planning to launch a series of cases aiming at challenging the constitutionality of Crime Prevention Law which grants the Governors the right to issue administrative detention orders.

5.3.4 Advocacy

Most organisations report that advocacy forms part of their activities. ARDD recently adopted a one-month advocacy campaign on women's access to justice comprising radio shows, a documentary film and a national event involving academics, journalists, community leaders, NGOs, state and non-state decision makers. JCLA's advocacy has focused on the adoption of a national legal aid model by building awareness of and understanding of the legal aid 'gap' with government, donor and NGO stakeholders. Following a conference on legal aid in 2013, JCLA has been working closely with the Ministry of Justice on a newly established Legal Aid Unit on process and manual development. JCLA also proposed a draft legislative amendment to the Criminal Procedures Law to expand the provision of legal aid to indigent persons.²²⁷

Such work is predominately undertaken over the short term (rather than sustained advocacy), is not coordinated between service providers and is not connected to a strong primary research base. A key constraint to a more coordinated approach is NGOs selecting between the numerous and immediate problems and could be the subject of advocacy. The complexity of and interrelation between such issues has also not been the subject of in-depth research; moreover, the political sensitivities surrounding justice reform, require that advocacy activities be sequenced, limited and strategically.

5.3.5 Research

A lack of comprehensive and accurate data, particularly on the demand aspects of justice and legal empowerment in Jordan limits the scope for effective strategy development, evidence-based programming and targeted advocacy. Such evidence is critical for determining the content of and target audiences for awareness-raising; the nature and focus of legal literacy tools; the number and location of legal clinics; the content and scope of staff training program; and advocacy on legislative reform and access to justice. Data is also critical in the establishment of a baseline to evaluate the impact and facilitate better discourse on how to advance legal empowerment more broadly.

²²⁷ JCLA is also undertaking institutional capacity building such as at the Ministry of Social Development following changes to the new Juveniles law set to take effect in January 2015.

While most legal empowerment organisations appreciate the importance of evidence-based strategies, research is not a core component of their activities and there is no systematic data collection or sharing. The exception is JCLA, which has conducted a Kingdom-wide survey on access to justice, and this remains the most comprehensive and reliable evidence on access to justice in the Kingdom. It has also initiated comprehensive and quantitative data collection processes focused on access to justice and access to counsel in criminal cases. A principal constraint is that, according to NGOs, donors are less interested in research activities than in service provision.

5.3.6 Monitoring and evaluation

The principal organizations employ a range of monitoring and evaluation (M&E) tools and methodologies. ARDD has dedicated M&E officers and uses a MEAL Matrix/Plan to define data sources, methods and tools for data collection, frequency of data collection, responsibilities for data collection, analysis and reporting. Programs use qualitative and quantitative indicators to monitor delivery and impact, with a logical framework as the benchmark for developing techniques to measure impact. The majority of projects include a mid-term review to examine and analyze progress, followed by an end of project evaluation. They undertake both internal and external reporting. Likewise, JCLA uses quantitative and qualitative indicators together with periodic reporting, performance evaluation and is in the process of developing a case management system. It has been working on impact evaluation in collaboration with the World Bank and has an independent quality control officer. Smaller organisations undertake no monitoring and evaluation apart from that which is required by donors. The quality and level of understanding of such processes is limited.

	Number of offices	Number of lawyers	Number of legal officers/ paralegals	Number of cases/consultations provided (total)	Number Resolved by mediation	Number of litigations/representations at court
ARDD	6	22		6000	1500	350
JCLA	24* (and 5 where once per week)	45	10 legal apprentices and 24 legal students	3010 (Jan-Oct 2014)		2009 (Jan-Oct 2014)
Tamkeen	1	8 (2 in Irbid and Zerka)	3	2446		153
Mizan	3 (focal point in Aqaba)	0**	4	243	8	108
JWU	15	20				

* JCLA has an additional 5 locations where it has a lawyer present on a weekly basis.

** Mizan operates through a network of 28 lawyers throughout Kingdom that take cases to court. Mizan helps to prepare cases, and covers the costs of court fees and lawyer honoraria,

	Shari'a		Civil		Criminal	
ARDD	35%	Divorce, child custody, alimony, contracts and personal documentation	60%	Rent and property disputes, labor rights, financial bond, disputes between neighbors	5%	
JCLA	68%	Divorce, alimony, custody	20%	Property and labor law	12%	Domestic violence and assault, juvenile justice
Mizan	0%	NA	33%	Labor cases, gender discrimination	66%	Victims of torture, child victims of violence, women victims of violence
JWU						
Tamkeen	0%	NA	22%	Wages Different than the Agreed upon in the contract, exploitation of working hours	31%	Physical and verbal abuse, passport confiscation

Beneficiaries					
	JCLA	Tamkeen	ARDD	Mizan	JWU
Women	80%			70%	
Migrant workers	10%	100%			
Poor	100%				
Refugees	20%				
Juveniles	20%			30%	

	Gender of beneficiaries				
	JCLA	Tamkeen	ARDD	Mizan	JWU
Female	80%	85%	40%	85%	
Male	20%	15%	60%	15%	

5.4 Organisation descriptions

5.4.1 ARDD Legal Aid

ARDD-legal aid was established in 2008 and is the current implementing partner for UNHCR's legal services. ARDD-Legal Aid's mandate is to promote and defend human rights through litigation and free legal services to marginalised groups, especially for refugees and migrants. More recently, it has established political and civic participation programmes. It is the only legal empowerment organisation in Jordan to host a dedicated psychosocial programming unit.

5.4.2 Justice Centre for Legal Aid

JCLA was established in 2008 as a nonprofit, nongovernmental organisation dedicated to providing legal aid services to help the poor and vulnerable access the justice system. JCLA is committed to facilitating access to justice, empowering communities, and effecting systemic change through representation, advocacy, and outreach. It has a network of 24 legal aid clinics Kingdom-wide and employs 45 full time legal consultants and 10 apprentices.

5.4.3 Mizan

Mizan Law Group for Human Rights was established as a civil, nonprofit organisation by a team of advocates in 1998. Its goals include the enhancement of democracy, the protection of human rights and the development of just and humane legislation. The main focus of its activities is assisting those affected by human rights violations, particularly gender issues, early marriage and trafficking. It has previously engaged in shadow reporting on the Convention Against Torture and has produced reports on the Convention on the Elimination of all Forms of Discrimination Against Women and violence against women in Jordan.

5.4.4 Jordanian Women's Union

Established in 1945, the Jordanian Women's Union (JWU), headquartered in Amman, is a nongovernmental, democratically elected organisation that is committed to improving the status of women.²²⁸ Its key goal is to respond to the needs of Arab women at risk of gender-based violence, gender-based inequality, and other human rights violations. JWU provides a range of social services; offices comprise a combination of social workers, psychologists, lawyers, nurses and in some cases doctors.

5.4.5 Tamkeen Fields for Aid

Tamkeen, established in 2007 and based in Amman, seeks to enhance social protection for marginalised groups and victims of human rights violations, regardless of social origin, race, color, sex, language, religion or other status. Its activities focus on combating all forms of discrimination, trafficking in persons, torture and ill-treatment. Its work includes awareness-raising, legal counseling and representation, and capacity building for authorities including from the Public Security, Ministry Of Labour, Ministry of Health, Ministry of Social Development, judges and journalists. It currently operates a human rights nationalization programme, a migrant workers programme and a human trafficking programme.

6. Responses and recommendations

Legal empowerment in Jordan is complicated by a set of overarching operational constraints. These include a normative legal framework that lacks internal coherency and pro-poor protections; the absence of a sound governing framework to facilitate and regulate the delivery of legal services; a weak rule of law culture; and an underdeveloped institutional framework for justice sector accountability and oversight. The complexity of and interrelation between these issues, and the political sensitivities surrounding justice reform, require that strategies and activities be sequenced and strategically linked to those obstacles most directly impacting the delivery of quality legal services for the marginalised. Steps toward a more inclusive system, where the marginalised are protected against violations and can access just remedies, can be divided into five core areas:

²²⁸ The JWU was established in 1945. In 1957, martial law was declared in Jordan and all nongovernmental organisations were dissolved. In 1974, the organization re-emerged as the Women's Union of Jordan and continued its activities until 1981 when, once again, it was compelled to discontinue its operations. With the democratisation of Jordan's parliament in 1990, the Women's Union of Jordan again resumed operation.

6.1 Strengthened legal protection framework

Specific provisions in the legal framework limit the scope for legal empowerment and require amendment:

- Provisions that restrict claimants from filing cases (and hence accessing the courts) in the absence of an attorney
- State-provided legal aid does not meet minimum international standards
- Jordanian women do not have the right to pass nationality to their children
- Gender inequality in parental rights
- Exculpatory and mitigating provisions in relation to gender-based and honour crimes
- No legislative protection against discrimination on the basis of sex
- Non-criminalisation of marital rape
- Provisions that prevent a child from accessing the courts without parental consent
- Age of criminal responsibility does not reflect international standards
- Protection of children against corporal punishment in the home is limited by reference to cultural norms.

In addition, positive obligations to enhance legal empowerment are required:

- Mandatory reporting of certain rights violations, including child sexual assault and abuse
- Increased safeguards to allow the state to prosecute crimes that may not be pursued for social or cultural reasons
- Restrictions on the ability to waive personal rights in cases of crimes involving children and sexual violence
- Legislation confirming the role of NGO-provided legal services
- Freedom of information legislation
- Legislative protection against discrimination on the basis of sex
- Specific protection to protect against forced marriage
- Specific provisions to protect children against statelessness
- Specific provisions to protect against women's forced dispossession of property
- Accessible, confidential, and effective reporting channels for crimes involving sexual and gender based violence enshrined in legislation

6.2 Enhanced access to justice

Jordan is certainly not the only country that restricts state-funded legal aid to criminal cases that may result in serious deprivations of liberty. This approach, however, leaves a large group of indigent rights-bearers vulnerable to going to court unrepresented (often with little understanding of their legal rights or court procedures) or not going to court at all. The approach is also inconsistent with Jordan's international legal obligations. International law requires the availability of a lawyer for the accused if one cannot be afforded without stipulating a type of crime or the penalty to enjoy this right. The International Covenant on Civil and Political Rights (1966) requires that all persons facing criminal charges (regardless of penalty) are entitled to have legal assistance assigned to them where the interests of justice so require, and without payment where such assistance cannot be afforded.²²⁹ Likewise the Arab Charter on Human Rights (2004) Art 16.4 refers to "the right to the free assistance of a lawyer who will defend him if he cannot defend himself or if the interests of justice so require ...". Jordan is a party to both of these international agreements.

The first step in examining the options for a more comprehensive state legal aid system involves an assessment of case volume. The JCLA survey findings suggest that, over a five-year period, 19.4 per cent of families are likely to be affected by a legal issue; this represents a total of 68,485 legal issues over one year. Not all of these legal issues will require legal aid. A certain proportion of case-holders will have the financial means to refer their case to court and hire an attorney. There will also be a group that amicably resolves their case without going to court or the assistance of a lawyer; a group that has other reasons for not wanting to refer their case to court; and a group that makes an informed choice to go to court without an attorney. Other groups, however, require assistance in order to access the justice system. There are different approaches to estimating the potential demand for legal aid depending on the objective of the system.²³⁰ Variants include income level (how poor should a person be before

²²⁹ Article 14 holds that: 3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; See also guarantees on the right to an effective remedy for rights violations (art 2(3a)), equality before the judiciary (art14(1)). Jordan signed and ratified the ICCPR in 1972 and 1975 respectively.

²³⁰ According to international guidelines, "the principal rationale of legal aid is to ensure that individuals can enjoy and exercise their legal rights, including the right to a fair trial. It is also an important safeguard that ensures fairness and trust in justice system. Legal aid is a foundation for

they are eligible for legal aid) and case type. The various options for the Jordan context are elaborated in Annex 3 and summarised below:

	Civil cases	Criminal cases	Shari'a cases	All cases
Very poor	6048	8,442	3,245	17,737
Poor	10,275	14,343	5,514	30,133
Total	16,323	22,785	8,759	47,870

Other methods for estimating volume include the number of cases not referred to court because of financial reasons *and* whose case holders are poor (6,525), or the number of cases referred to court without a lawyer because of financial reasons *and* whose case holders are poor (8,907).

Under each of these scenarios, it is important to highlight that not all eligible persons would choose to avail of legal aid. Some might choose to borrow money or use savings to finance a lawyer of their choice; others might secure a lawyer using different means, such as through a relative.

Whether the approaches outlined above (or others not considered here) might be appropriate for Jordan requires a more comprehensive evaluation of country-specific factors. A key issue will be economic viability. The government has argued that a national legal aid model is unrealistic in the context of its current budget constraints. An evidence-based discussion is therefore needed, that takes into account different model options, and the range of relevant financial factors (positive and negative) such as increased use of the court system, reduced use of the correctional system, as well as non-financial factors, such as potential for reduced rights violations, confidence in the justice sector and a more empowered population. An option worthy of consideration is the government financing an expanded but decentralised legal aid system through NGOs, with requisite regulation and safeguards, or a hybrid model of state legal aid supplemented by NGO services. Other options to promote sustainability include a closer examination of whether Zakat (compulsory alms) collection could be channelled into funds earmarked for assisting the poor to access justice.

Another important factor in determining the extent to which legal aid services should be expanded is demand. There is strong evidence to suggest that rights violations are occurring at high rates, but this does not appear to translate into equally high levels of demand on legal aid service providers. A key impediment is trust and attitudes towards legal aid. Jordan is a society structured around the notion of tribe; rights holders are strongly discouraged from reaching outside of their tribal structure for assistance and the tribal system operates to deliver such assistance, including for those who cannot afford it (even if solutions proffered are not rights-supportive). There are also prejudicial attitudes towards services that are free, or funded by foreign donors. The concept of legal aid thus faces constraints deeply embedded in the social fabric. A compounding issue is popular lack of trust towards lawyers. The JCLA survey found that of those who went to court unrepresented, 8 per cent (1,920 cases per year) stated that the reason was that they did not trust lawyers and 4.9 per cent (1,029 cases per year) feared that the presence of a lawyer would worsen their situation. Of those that did hire a lawyer, 31.3 per cent (6,713 cases per year) did not find their presence useful. A final issue is the extent to which existing legal aid services are not meeting the needs of marginalized communities, including where NGOs have limited capacity (e.g. to provide legal representation services as opposed to just counseling and mediation) and in the case of certain types of offences.

This said, NGO legal service providers play a critical role in Jordan; they are currently the only option for indigent and marginalised groups who faced a rights violation that does not fit the narrow definition required for state legal aid. Given that many of the groups availing of such services face severe accessibility constraints, such as freedom of movement in the case of migrant workers and social and cultural restrictions in the case of women, the continuity of these organisations is critical. These actors, however, need to better coordinate, adopt more coherent strategies and strengthen specific skill-sets. The quality of 'second tier' legal aid service providers requires comprehensive improvement.

the enjoyment of other rights, including the right to a fair trial, as defined in article 11, paragraph 1, of the Universal Declaration of Human Rights, 1 a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process" (A/RES/67/187 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems para 1). "Legal aid may also reduce the length of time suspects are held in police stations and detention centres, reducing the prison population, wrongful convictions, prison overcrowding and congestion in the courts, and reducing reoffending and re-victimization. Legal aid can be utilized to contribute to the prevention of crime by increasing awareness of the law and the consequences. A functioning legal aid system, as part of a functioning criminal justice system, may reduce the length of time suspects are held in police stations and detention centres, in addition to reducing the prison population, wrongful convictions, prison overcrowding and congestion in the courts, and reducing reoffending and revictimization. It may also protect and safeguard the rights of victims and witnesses in the criminal justice process. Legal aid can be utilized to contribute to the prevention of crime by increasing awareness of the law" (A/RES/67/187 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems para 3).

An operating environment that supports the functioning of NGO legal service organisations is an important step to strengthening access to justice. This might include regulation or legislation clarifying their role as well as exempting their work from court fees and other administrative costs. Government concerns regarding the expansion of civil society and the need to maintain stability need to be acknowledged and viable solutions found.

Donor governments should play a more active role. At present, NGO programming is donor-led as opposed to being driven by a collective understanding of the key issues and integrated response strategy. This is, in part, a 'chicken and the egg' problem. Civil society lacks the coordination and cooperation to present a united and evidence-based position for how legal empowerment should be approached; without this, donors proceed based on their own assessments and often skewed by domestic priorities. Donors should support coalition building among NGOs, as well as encouraging the government to lay the foundations for a more liberal operating environment. Finally, both government and donors prefer a strengthening of the formal justice system as opposed to legal empowerment approaches. Such reforms are undoubtedly required, but could be strengthened through a more inclusive approach and enhanced dialogue between policymakers and civil society on the obstacles faced by marginalised groups.

It is important to appreciate that whatever form an expanded legal services system takes, this is not a solution in and of itself. Simply because legal aid is available, for example, will not necessarily imply that access to justice has improved. Similarly, providing poor persons with a lawyer may have little impact if the obstacles dissuading disputants from approaching the courts in the first place are not addressed. Models of legal aid are simply frameworks within which other substantive reforms must take place, such as building working relationships between communities and formal justice actors and promoting reforms within the court system.

Priority actions

- Legislation confirming the role of NGO-provided legal services, with appropriate safeguards
- Exemption of NGOs providing legal services from court fees and lifting restrictions relating to their employment of lawyers and advertising their services
- Sustained training for NGO legal service providers in technical areas (strategic litigation, Islamic jurisprudence, paralegalism, mediation, advocacy and awareness raising) and core areas (strategy development, legal development theory, program management, and monitoring and evaluation)
- Establishment for a coordination mechanism for legal empowerment organisations, including mechanisms for joint strategy development, referral systems and data collection
- Improved guidelines regulating the process of providing state legal aid
- Systems for accountability and oversight of the quality of legal services provided by the state, JBA and NGOs
- Mainstreaming the protection of vulnerable groups in government institutions including through referral networks, specialist staff, and protocols that take into account the needs and vulnerabilities of the marginalized
- Accessible, confidential, safe and user-friendly reporting mechanisms for rights violations that connect rights holders, legal service providers and auxiliary service providers (health and mental health care, livelihoods, shelters etc.)
- Comprehensive and evidence-based examination of the viability of an expanded legal aid model from the perspective of cost effectiveness.

6.3 Combating discrimination against vulnerable groups and promoting a pro-poor culture

The persistence of stereotypical and patriarchal attitudes towards women and children, as well as discrimination against marginalised groups such as the poor, refugees, migrant workers and minorities is a fundamental obstacle to enhanced legal empowerment. The dominant social obligation towards such groups is rooted in a charity mentality (providing direct financial or in-kind assistance) as opposed to empowering such persons to claim their rights and occupy the role of active community stakeholders. Such attitudes are pervasive and, particularly problematic, are widely held by protection agents including police, correctional workers, judges, lawyers, tribal and religious leaders and government workers. A further manifestation is the absence of lawyers willing to engage in pro bono work and that are committed to issues of marginalisation. Among the myriad strategies, training programs and programmes launched, this causal factor of entrenched discrimination is not specifically addressed. Reversing such attitudes and encouraging the evolution of a pro-poor culture will be a generational project, requiring significant and long-term institutional and financial commitment.

Priority actions

- Examination of legislation to identify and propose amendments to provisions that are discriminatory or tolerate discriminatory attitudes e.g. the inability of women to pass nationality to their children
- Introduction of positive obligations in legislation towards marginalised groups e.g. safeguards to protect against forced marriage and where women may be pressured to waive inheritance rights
- Inclusive public debates, such as town hall meetings or televised debates on issues of marginalisation and legal empowerment
- Specific public education, mobilisation and information campaigns to combat adverse attitudes, practices and norms, and especially to reverse stigmatisation of victims of gender-based violence, exploitation and abuse. Such campaigns should draw on and link to obligations in the existing cultural framework that empower women and other marginalised groups such as relevant interpretations of Islamic jurisprudence,
- Examination of educational curricula to identify discriminatory references or perpetuate discriminatory attitudes
- Compulsory programs in law schools and continuing legal education on legal empowerment, legal aid and the specific constraints and vulnerabilities of marginalised groups. Specific programs to encourage pro bono lawyering and to counter attitudes that discourage graduates from engaging in pro bono and legal aid work
- Training programmes for protection agents (teachers, judges, lawyers, public prosecutors and defenders, correctional workers, police, religious and tribal leaders etc.) on the rights and specific constraints and vulnerabilities of marginalised groups, and 'do no harm' practices.

6.4 Promoting legal literacy and a strong rule of law culture

Jordan suffers from chronically low levels of legal rights awareness. The only response strategies are driven by civil society organisations whose approach is inefficient (both in terms of time and resources) and insufficient vis-à-vis the depth of the problem. Mass public education based on a prioritisation of 'need to know' issues is required. Modalities must respond to the population's preference for direct communication led by persons of authority; examples include Friday sermons, TV advertising and national debates. Specific strategies are required to reach highly marginalised groups and those with mobility constraints. Migrant workers and religious minorities are highly organised; strategies should link in to these networks.

A further issue is the widespread lack of awareness of existing NGO legal service providers. Awareness-raising should target specific issues (how to access NGOs, the range of services provided and promoting confidence in service providers) as well as specific groups that have difficulty accessing justice, such as women, the poor and those with Shari'a cases. Enhanced reach might be achieved by NGOs jointly prioritising issue areas and a loose coordination of responsibility. Second tier legal service providers undertaking awareness-raising activities need improved understanding of the law, particularly in Islamic jurisprudence, and first line protection agents such as police need complementary training in the rights relevant to target groups.

The more complex issue is Jordan's weak rule of law culture manifested in a pervasive lack of confidence in the justice system and justice sector actors. Improvements in this area again involve long-term programmatic commitment driven by broad and transparent communication regarding steps taken and wins accrued. Accelerating steps might include better access to the court system, a strengthened response to corruption, improved oversight of protection agents, and enhanced accountability systems.

Priority actions

- Prioritisation of 'need to know' issues by NGOs in coordination with courts, women's groups and other stakeholders
- Mass media legal awareness campaigns, including through TV, radio, video and religious addresses. Such approaches should engage non-traditional groups e.g. men on domestic violence issues, and partnerships with the Ministry of Wakaf and Islamic Affairs
- Educational curricula reform (primary and secondary) to include basic civic rights and responsibilities,
- Help desks, translators and paralegals stationed in courts, police stations and government offices
- Lifting restrictions on NGOs that prevent the advertising of legal services
- Specific strategies to enhance confidence in the justice sector and actors
- Improved oversight, strategies to combat corruption and strengthened accountability mechanisms
- Training of second-tier NGOs on legal rights, Islamic jurisprudence and awareness-raising methodologies.

6.5 Development of an objective and reliable knowledge base

A lack of comprehensive and accurate data limits the scope for effective strategy development, evidence-based programming and targeted advocacy. While there is a good level of data on access to justice and attitudes towards the justice sector, such information needs to be periodically updated and donors should support such work. Moreover, there is a dearth of information on the outcomes of dispute resolution, and the scope of specific violations such as violence against children, sexual violence and sexual exploitation. This might be responded to through a comprehensive system for collecting data from NGOs and related entities.

A specific area where there is limited information is the tribal justice system. While it is expected that a proportion of legal issues will be resolved amicably without going to court or the assistance of a lawyer, the number suggested in the JCLA survey data is significant (39 per cent of all cases not referred to court or 8,867 cases per year). It is likely that many of the cases are resolved using traditional norms and *jaha* (dispute resolution methodologies). Little is known about such systems, particularly how marginalised groups such as women, the poor and issue-holders from less powerful tribes, fare in such negotiations. These concerns specifically extend to the group of issue-holders that cited shame, customs or traditions as the reason preventing them from referring their case to court (19.2 per cent of all cases not referred to court or 2,432 cases per year). Of this group, 35.1 per cent of those reporting the issue were female and 55.7 per cent of the cases involved a criminal law issue. More research needs to be invested in understanding how cases are resolved under this system, the characteristics of issue-holders and the steps that might be taken to ensure that basic rights are upheld and that issue-holders are able to access fair and just outcomes.

Most critically, data collected must inform the development of programming (the content of and target audiences for awareness-raising; the nature and focus of legal literacy tools; the number and location of legal clinics; the content and scope of Continuing Legal Education training programmes; advocacy on legislative reform) and policies (e.g. with respect to legal aid) at both the government and NGO levels. Data must also be used to evaluate the impact of programs and to advance an evidence-based discourse on how to advance legal empowerment more broadly. The transition to evidence-based programming and policy-making is difficult, complex and requires specific investment and strategy.

Annex 1: Human rights treaties – ratification status for Jordan

Treaty name	Treaty description	Signature date	Ratification date
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		13 Nov 1991
CAT-Art. 20	Inquiry procedure under the Convention against Torture		13 Nov 1991
CAT-OP	Optional Protocol of the Convention against Torture		
CCPR	International Covenant on Civil and Political Rights	30 Jun 1972	28 May 1975
CCPR-OP2-DP	Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
CED	Convention for the Protection of All Persons from Enforced Disappearance		
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	03 Dec 1980	01 Jul 1992
CERD	International Convention on the Elimination of All Forms of Racial Discrimination		30 May 1974
CESCR	International Covenant on Economic, Social and Cultural Rights	30 Jun 1972	28 May 1975
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		
CRC	Convention on the Rights of the Child	29 Aug 1990	24 May 1991
CRC-OP-AC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	06 Sep 2000	23 May 2007
CRC-OP-SC	Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	06 Sep 2000	04 Dec 2006
Rome Statute	Rome Statute of the International Criminal Court	07 Oct 1998	11 Apr 2002
CRPD	Convention on the Rights of Persons with Disabilities	30 Mar 2007	31 Mar 2008
	Arab Charter on Human Rights developed by the League of Arab States		2004
	The United Nations Convention against Transnational Organized Crime	26 Nov 2002	22 May 2009
	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime		11 Jun 2009

Annex 2: Data on rights knowledge and perception

The following data is taken from a survey of 1050 youths (19-24 years) was conducted by Jordanian Hashemite Fund for Human Development, the Queen Zein al-Sharaf Institute in 2013. It was designed to (i) collect data on knowledge, attitudes, and practices towards access to justice mechanisms, including the role of law enforcement, legal practitioners (lawyers, judges, etc., and other sources of information and legal aid; and (ii) explore if, (and if so, how) people's views are affected by certain variables such as gender, social status and the prevailing culture. The survey profiled youths in 44 geographical areas using a stratified random sampling weighted method.

Knowledge of the law (the italicised answer is correct)

What is the opinion of the law on beating wife?	
<i>It is against the law for a man to beat his wife under any circumstances</i>	51.8%
A man may beat his wife if she disobeys him	17.6%
It is only against the law for a man to beat his wife if he causes significant injury	22.2%
Don't know/would not answer	8.4%
Following divorce, who has custody over children?	
The father has custody of the children	7.1%
The mother can have custody with the permission of the father	32.4%
<i>The mother is automatically granted custody unless she remarries or it can be proven that she cannot take care of the children</i>	55.3%
Don't know / would not answer	5.2%
In the event that a father dies, a daughter is entitled to:	
Nothing, all inheritance goes to the sons and the brothers of the deceased	3.6%
<i>Her share according to the law</i>	87%
She receives a share only if she does not have brothers	5.1%
Don't know/would not answer	4.3%
What is the minimum age of marriage for girls?	
There is no minimum age	8%
<i>Under 18 with the permission of the court</i>	17.9%
18	69.3%
Don't know/would not answer	4.8%
Which cases can be resolved outside of the courts?	
Serious cases such as murder must be resolved by the courts, but any other matter can be resolved outside of the courts	10.1%
<i>Any case can be resolved outside of the courts as long as the parties agree</i>	40.6%
All criminal cases must be resolved by the courts, but civil cases can be resolved between the parties	37.7%
Don't know/would not answer	11.6%
Do adult women need permission from a male relative in order to travel?	
Yes	49.9%
No	37.9%
<i>Only if she is travelling with her children</i>	8.7%
Don't know/would not answer	3.5%
Are honor killings ever permitted under law?	
<i>Never</i>	66.8%
Only in cases of adultery	15.4%
Only in certain circumstances	12.1%
Don't know/would not answer	5.7%
What are the best resources to help you acquire knowledge on rights?	
Family	20.8%
Friends	10.6%
Educational institutions	18.1%
Mass media	3.5%
Jordanian television	6.4%

Satellite stations (non-Jordanian)	4.2%
Printing materials, posters	4.9%
Social media, Internet	12.4%
Religious Organizations	8.8%
NGOs	5.8%
International NGOs	3.9%
Lawyer and courts	0.1%
Ministry of labor	0.0%
Refuse to answer	0.6%
Total	100.0%

Statements about the rule of law	Agree	Disagree	Neutral	Don't know	Refuse to answer
Rights and duties of citizens must be defined and consistent, and not change with the government	85.5	5.6	7.4	1	0.5
Human rights create a more just society	90.1	2.5	6.4	0.5	0.6
Rights and duties are of equal importance	77.9	9	11.7	0.9	0.6
Utility bills (water/electricity) must be paid whether the service is available regularly or not	25.5	58.1	13.4	2.2	0.8
Every person must bear the responsibility of their actions	89.1	4.2	5.1	0.5	1.1
I can violate someone else's rights to enjoy my own	8.8	84.8	5	0.7	0.7
Human rights are a problem in Jordan	55.7	24.3	18	1.2	0.7
Human rights are a Western idea that do not apply to Jordanians	32	45.7	15.2	3.8	1.4
We all are equal regardless of race, gender and language	84.8	8.8	5	0.7	0.7

Statements about trust in justice sector	Agree	Disagree	Neutral	Don't know	Refuse to answer
The court issues a ruling under the law in the case of an issue referred to the court related to a violation of human rights	66.9	7.8	18.2	6.5	0.7
I will get the same result either if I represent myself in court or if I take advantage of the various legal assistance services	34.4	40.6	19.1	5.3	0.6
The most important factor for a judge to consider when he undertakes a case is what is present in the law related to the subject of this problem	68.7	8.8	15.2	6	1.3
There is discrimination against poor people in the courts in Jordan	30.4	48.1	17	3.8	0.7
The most important factor of a judge in resolving cases is his perception of fairness	67.6	14.1	13.7	4.4	0.3
My chance of winning a case is greater if my lawyer is better than the opponent's	62.2	17.6	14.5	4.7	0.9
My chance of winning a case in court is greater if I pay a sum of money to the judge	20.7	57.3	17.3	3.2	1.5

My knowledge of the laws is not important because most problems are solved through the tradition "Jahat"	26.2	51.5	18.8	2	1.5
My knowledge of the mechanisms of the judicial system isn't important because of the Jahat system	24.4	47.7	16	1.8	10.1
My knowledge of the laws and its mechanisms is not important because the judicial system doesn't work	17.3	61.3	17.2	2.1	2.1
Human rights benefit those with money the most	25.7	52.2			
I will be treated equally by the police regardless of their nationality	61.3	19			
If my rights were violated, I would resort to the judicial system because I think it would be effective in resolving the problems that I may face	67.7	17.5			
Judges are more committed to applying the law of other individuals	62.7	14.9			
Police are more committed to applying the law of other individuals	49.8	25.2			
I know I have rights but if they were violated I would not know what to do	36	43			

Statements about gender	Agree	Disagree	Neutral	Don't know	Refuse to answer
There is discrimination against women in the courts in Jordan	27	51	17	4.4	0.1
Rights of men and women are equal in undertaking certain decisions for their children	74	11	12.6	0.9	1.4
Rights of men and women are equal in undertaking decisions of spending family income	72.9	13.2	12.1	0.4	1.3
Men know more than women when it comes to making family decisions	48.9	33.9	14.9	0.9	1.3
It is acceptable that there is a difference between the man and the women in rights	44%	39.4%	12.9%	2.5	1.2
The law is equal for men and women, but this equality is not activated in reality	51.9	27.6			
It is difficult for women resort to the judicial system in the case of facing any problem	32	51.6			

Levels of trust for different justice sector actors

	Trust	Neutral	Distrust	Refused to answer
Police	59.8	16.2	13.3	10.6
Administrative judge	51	18	19.1	11.9
Parliamentarian	28.5	21.7	36.9	12.8
Cleric	58.7	19.1	12.2	10.1
Local council member	25.5	30.1	31.9	12.4
National council member	21.6	27.3	40.6	10.5
CSO	44.9	21.4	24	9.7
International organisation	42.5	26.7	18.8	12
Media	30.5	27.6	30.6	11.3
Person with high level of position	43.2	24.6	20.9	11.3
Elder of clan/tribe (Sheikh al-Ashira)	47.6	21.8	19.8	10.7
Independent lawyer	45.5	25.5	15.3	13.7
Court with a lawyer	67.1	13.9	8	11
Court without a lawyer	38.6	22.2	27.1	12.2

Annex 3: Estimating the volume of legal aid

There are various ways to evaluate or estimate the potential demand for legal aid, depending on the objective of the legal aid system. The first way that legal aid might be approached is for it to be made available to all those who are too poor to access the court system. In this case, a first step is to establish a benchmark for who is considered 'too poor' to access the courts. This is generally a complex process that takes into account income distribution, other wealth indicators, court fees, representation costs etc. For the purposes of this study, two thresholds of 'poor' were examined: the very poor (incomes of less than JD250 per month) and the 'poor' (incomes of between JD250-499 per month). Where the threshold for eligibility for legal aid is set at 'very poor', an estimated 17,737 cases per year would be eligible for legal aid. If this threshold is set to include the poor, this figure rises to 47,870.

A more narrow way of approaching legal aid is that it is only made available to persons who would not otherwise be able to access the justice system *and* that hold certain types of cases, usually criminal cases.²³¹ In this case, where the threshold is set at 'very poor', an estimated 8,442 persons per year would be eligible for legal aid. Where the threshold is set to include the poor, this figure rises to 22,785.

Under both of these scenarios, it is important to highlight that not all eligible persons will choose to avail of legal aid. Some may choose to borrow money or use savings to finance a lawyer of their choice; others may secure a lawyer using different means, such as through a relative.

	Civil cases	Criminal cases	Shari'a cases	All cases
Very poor	6048	8,442	3,245	17,737
Poor	10,275	14,343	5,514	30,133
Total	16,323	22,785	8,759	47,870

A third way that legal aid might be approached is for it to be available to those who would not otherwise access justice through the legal system because of financial reasons. Under this scenario, the estimated volume of demand for legal aid is drawn from those cases that were not referred to court because of financial reasons *and* that were also poor. Where the eligibility threshold is set at 'very poor' this figure is 2,217 cases per year; where the eligibility threshold is set at 'poor' this figure increases to 4,308 cases per year. This figure is likely to be undervalued as it excludes eligible persons that may have chosen to refer their cases to court had an accessible legal aid system been in place, such as those that did not refer their case to court because the issue was solved amicably, because the issue-holder did not have the time to pursue the case, or because the issue-holder was unaware of the required procedures. Together, these cases total 12,822, of which an estimated 10,078 were poor or very poor.²³² It must be highlighted that it is not possible to gauge how many of these case-holders would have chosen to refer their case to court had legal aid been available to them (some still would have resolved their cases amicably or chosen not to refer their cases to court for other reasons), however it can be assumed that at least a proportion would have.

This approach to estimating the demand for legal aid might also include those cases referred to court without a lawyer because of financial reasons, if it can be demonstrated that such issue-holders were not able to access just outcomes (an estimated 9,108 cases, of which 8,097 were 'poor' or 'very poor'). Again, this figure excludes persons that may have chosen to avail of legal aid had it been accessible, such as those that referred their case to court unrepresented because the issue was solved amicably or because they did not trust lawyers or feared that the presence of a lawyer might make their situation worse.²³³ Together, these cases total 11,025, of which an estimated 9,801 are 'poor' or 'very poor'. It must be stressed that it is not possible to estimate how many of these would have chosen to avail of legal aid been available to them, however it can be assumed that at least a proportion would have.

A final way that legal aid might be approached is for it to be available to those who would not otherwise have accessed justice through the legal system because of financial *or other* reasons related to vulnerability. Under this approach, those eligible for legal aid would include those who could not afford to access the courts (using one of the eligibility criteria detailed above), as well as other vulnerable groups that have difficulty accessing justice. There

²³¹ Under the international guidelines, States should ensure that anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty is entitled to legal aid at all stages of the criminal justice process. 21. Legal aid should also be provided, regardless of the person's means, if the interests of justice so require, for example, given the urgency or complexity of the case or the severity of the potential penalty. (A/RES/67/187 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems paras 20-21).

²³² Those that did not refer their case to court: because the issue was solved amicably (8867 cases of which 6969 are estimated to poor or very poor), because the issue-holder did not have the time to pursue the case (2432 of which 1912 are estimated to poor or very poor) or because the issue-holder was unaware of the required procedures (1523 cases of which 1197 are estimated to poor or very poor).

²³³ Those that referred their case to court unrepresented because: the issue was solved amicably (7934 cases of which 7035 are estimated to poor or very poor); they did not trust lawyers or feared that the presence of a lawyer might make their situation worse (3091 cases of which 2748 are estimated to poor or very poor).

are merits to such an approach. As the survey demonstrates, those excluded from the justice system are not only those who are poor. Gender, education and case typology also appear to play a role in determining whether cases will not be referred to court or referred to court in the absence of a lawyer. When a vulnerability approach to legal aid is taken, women, case-holders from female-headed families, the undereducated and those with certain types of cases might be afforded more lenient treatment when their eligibility for legal aid is assessed. Such flexibility would also be extended to other groups that are likely to have difficulty accessing justice, even where this is not statistically supported. In the case of Jordan, such groups might include the over 60 years age bracket,²³⁴ minors, refugees and migrant workers.

²³⁴ 10.8% of those affected by legal issues were over 60 years of age. Such groups are less likely to be income-earners, are more vulnerable to exploitation and abuse and are less likely to be able to navigate complex court procedures.

Annex 4: Indicators

Goals			
1. Legal framework that provides adequate and equal protection to all groups			
2. Access to just outcomes at court or through mediation			
3. Equal protection of men, women and children against rights violations embedded within the social culture			
4. Confidence in the justice sector to protection and uphold rights			
Core indicator	Sub-indicators	Means of verification	Weighting/measurement
Right to access the courts system	Legislative provision guaranteeing access to the courts system	<i>Legislation must include (or not exclude) migrant workers, refugees, children, women and religious minorities on an equal basis as others</i>	
	Physical accessibility to the courts system	<i>Court within x distance (disaggregated for type of court)</i>	
		<i>Number courts as a % population (disaggregated for type of court)</i>	
	Conceptual accessibility to the courts system	<i>Availability of low literacy information (ease of accessing information if needed)</i>	
		<i>Number of awareness activities vis-à-vis population in need</i>	
		<i>Help desks/materials/assistance at courts</i>	
		<i>Help desks/materials/assistance at police stations</i>	
		<i>Legislation guaranteeing the right to an interpreter in court</i>	
		<i>Interpreters available in x courts</i>	
		<i>Number of times interpreter availed of</i>	
		<i>Awareness of how to access court system</i>	
		Social/customary accessibility of courts	<i>Number of cases not referred to court due to shame or custom</i>
	<i>Perception of discrimination or mistreatment at courts on basis of gender, race or other marginalization factor</i>		
	<i>Instances of discrimination or mistreatment at courts on basis of gender, race or other marginalization factor</i>		
	Financial accessibility	<i>Legislative provisions that facilitate either self-representation or access to a free attorney</i>	
		<i>Average fees vis-à-vis average incomes</i>	
		<i>Availability of legal aid services for poor</i>	
		<i>Waiver of fees for poor or access to free legal aid in legislation/regulation</i>	
	Access in practice	<i>Number referred to court (vis-à-vis number of disputes, and disaggregated for case typology and gender and income)</i>	
		<i>Number referred to court with attorney (vis-à-vis number of disputes, and disaggregated for case typology and gender and income)</i>	
		<i>Number referred to court without an attorney (vis-à-vis number of disputes, and disaggregated for case typology and gender and income)</i>	
		<i>Length of time to resolve (disaggregated for case typology and gender and income)</i>	
		<i>Number of cases resolved through courts</i>	
<i>Outcome quality</i>			
<i>Number amicably resolved (informal level)</i>			

		<i>Outcome quality at informal level</i>	
		<i>Number not referred to court for financial reasons</i>	
		<i>Number not referred to court due to lack of knowledge</i>	
Right to assistance accessing justice	Right to representation	<i>Legislation guaranteeing right to an attorney</i>	
		<i>Legislation guaranteeing right to have attorney present at police station</i>	
	Right to state-provided legal aid for indigent persons	<i>Volume state provided legal aid/year</i>	
		<i>Adequacy of supply</i>	
		<i>Adequacy of quality</i>	
		<i>State-provided legal aid meets minimum standards for serious criminal cases</i>	
		<i>Adequacy of information of availability of services</i>	
	NGO-provided legal aid	<i>NGO-provided legal services guaranteed in legislation</i>	
		<i>Volume of legal aid provided</i>	
		<i>Operating environment for NGOs meets minimum standards</i>	
		<i>Adequacy of supply</i>	
		<i>Adequacy of quality</i>	
		<i>Adequacy of information of availability of services</i>	
	Rule of law culture	Confidence in formal dispute resolution	<i>Confidence of a fair outcome regardless of nationality</i>
<i>Confidence of a fair outcome regardless of gender</i>			
<i>Confidence of a fair outcome regardless of tribe</i>			
<i>Confidence that nepotism will play a role in dispute resolution in court</i>			
<i>Confidence that nepotism will play a role in dispute resolution in police</i>			
<i>Confidence that corruption will play a role in dispute resolution in police</i>			
<i>Confidence that corruption will play a role in dispute resolution in court</i>			
<i>Confidence that gender will play a role in dispute resolution in police</i>			
<i>Confidence that gender will play a role in dispute resolution in court</i>			
<i>Perception of safety from human rights violations from government</i>			
<i>Perception of physical safety outside of the home</i>			
<i>Perception of protection inside of the home</i>			
Confidence in power of dispute resolution actors			<i>Judges, police, tribal leader, religious leader (comparative power-holdings)</i>
		<i>Preference for formal or informal dispute resolution</i>	
Legal awareness		<i>Women's rights</i>	
		<i>Criminal law issues</i>	
		<i>Property law issues</i>	
		<i>Children's rights issues</i>	
		<i>Labor law issues</i>	
			<i>Identity law issues</i>

		<i>Access to dispute resolution systems</i>		
		<i>Access to free legal services</i>		
Protection of religious freedoms	Freedom to marry person of choice regardless of religion	<i>In legislation (positive obligation or no legal bar)</i>		
		<i>Number of inter-marriages</i>		
		<i>Perception/confidence</i>		
	Freedom of religious groups to practice	<i>In legislation (positive obligation or no legal bar)</i>		
		<i>Perception/confidence</i>		
	Equal legal rights regardless of religion	<i>Legislative provisions</i>		
	Right of all religious groups to have marriages recognized	<i>In legislation (positive obligation or no legal bar)</i>		
		<i>Different religious groups legally marry in practice</i>		
Right to access information	Right to access information on government processes (policy-making, administrative decision-making and government service delivery)	<i>Right enshrined in legislation</i>		
		<i>Volume of access</i>		
		<i>Knowledge of right</i>		
	Right to access information on personal information held by the government	<i>Right enshrined in legislation</i>		
		<i>Volume of access</i>		
		<i>Knowledge of right</i>		
	Journalistic freedoms	<i>Enshrined in legislation</i>		
		<i>Right utilized in practice</i>		
		<i>Journalist perception on utility of right</i>		
	Freedom from discrimination	Protection against discrimination on the basis of sex	<i>Positive provision that can be used to challenges discriminatory legislation, practices and norms</i>	
<i>Existence of legislation that discriminates on the basis of gender</i>				
<i>Number of legal cases involving gender discrimination</i>				
<i>Number of legal cases involving gender discrimination referred to court</i>				
<i>Number of legal cases involving gender discrimination referred to court with positive outcomes</i>				
Protection against discrimination on the basis of religion, ethnicity, race/color, age or disability		<i>Positive provision that can be used to challenges discriminatory legislation, practices and norms</i>		
		<i>Existence of legislation that discriminates on the basis of religion, ethnicity, race/color, age or disability</i>		
		<i>Number of legal cases involving discrimination on the basis of religion, ethnicity, race/color, age or disability</i>		
		<i>Number of legal cases referred to court</i>		
		<i>Number of legal cases referred to court with positive outcomes</i>		
Freedom of marriage and in parenting		Freedom to marry	<i>Specific legislative protection to choose a spouse and to consent to marriage</i>	
			<i>Specific legislative protection against forced marriage</i>	
			<i>Penalties for forced marriage that reflect the gravity of the crime</i>	
			<i>Numbers of cases relating to forced marriage referred to court</i>	
	<i>Perceptions regarding prevalence of forced or arranged marriage</i>			
	Rights to terminate marriage		<i>Provisions that facilitate divorce without a woman compromising her assets or custody rights</i>	
		<i>No fault divorce that can be initiated by both men and women</i>		
		<i>Number of divorces initiated at courts</i>		

		<i>(disaggregated for gender)</i>	
		<i>Social norms discouraging female-initiated divorce</i>	
	Equality in parental rights	<i>Specific right to make decisions regarding children on a gender equal basis</i>	
		<i>Specific right to custody or access on a gender equal basis</i>	
		<i>Number of cases on custody referred to court</i>	
		<i>Social norms regarding equality in parenting</i>	
Gender crimes	Protective legal framework for sexual assault	<i>Law defines and protects against sexual assault for males and females</i>	
		<i>Law criminalizes marital rape</i>	
		<i>Applicable law equally protects men, women, children and migrant workers</i>	
		<i>Penalties for sexual assault that reflect the gravity of the crime</i>	
		<i>Aggravated penalties for sexual assault against children (a child being defined at 18 years)</i>	
		<i>Exculpatory or mitigating provisions do not operate to shield offenders or abrogate the rights of victims</i>	
		<i>No exculpatory or mitigating provisions where the victim is a child</i>	
		<i>Obligation of state to state to pursue any case involving a child where personal rights are waived</i>	
		<i>Social norms that dissuade victims from reporting offences</i>	
		<i>Number of cases</i>	
		<i>Number of cases referred to court</i>	
		<i>Number of cases referred to court with positive outcomes</i>	
		<i>Availability of specialists in medical clinics</i>	
		<i>Availability of specialists in police stations</i>	
		<i>Reporting mechanisms for GBV offences that are accessible and appropriate</i>	
	<i>Perception of sexual crimes against women and children</i>		
	Protective legal framework for domestic violence	<i>Law defines and protects against domestic violence</i>	
		<i>Law provides equal protection against domestic violence for men, women, children and migrant workers</i>	
		<i>Social norms that dissuade victims from reporting offences</i>	
		<i>Penalties for domestic violence that reflect the gravity of the crime</i>	
		<i>Aggravated penalties for violence against children (a child being defined at 18 years)</i>	
		<i>Exculpatory or mitigating provisions do not operate to shield offenders or abrogate the rights of victims (e.g. precautionary provisions)</i>	
		<i>No exculpatory or mitigating provisions where the victim is a child</i>	
		<i>Obligation of state to state to pursue any case involving a child where personal rights are waived</i>	
		<i>Social norms that dissuade victims from reporting offences</i>	
		<i>Number of cases</i>	
		<i>Number of cases reported to court</i>	
<i>Number of cases reported to court with positive outcomes</i>			
		<i>Access to a shelter without having to go to</i>	

		<i>police</i>		
		<i>Adequate access to shelter and emergency care that includes children</i>		
		<i>Perception of domestic violence crimes against women and children</i>		
	Honor crimes	<i>Law defines and protects against honor crimes</i>		
		<i>Penalties that reflect the gravity of the offence</i>		
		<i>Aggravated penalties for violence against children (a child being defined at 18 years)</i>		
		<i>Social norms that dissuade victims from reporting offences</i>		
		<i>No exculpatory or mitigating provisions where the victim is a child</i>		
		<i>Exculpatory or mitigating provisions do not operate to shield offenders or abrogate the rights of victims (e.g. precautionary provisions)</i>		
		<i>Obligation of state to state to pursue any case where personal rights are waived</i>		
		<i>Number of cases</i>		
		<i>Number of cases reported to court</i>		
		<i>Number of cases reported to court with positive outcomes</i>		
		<i>Access to protective shelter that does not compromise rights</i>		
<i>Societal perception of honor crimes</i>				
Property rights	Property ownership	<i>Legal protection of customarily held land</i>		
		<i>Laws that do not penalize squatters</i>		
		<i>Protection against arbitrary eviction</i>		
		<i>Protections for tenants relating to rent increases</i>		
		<i>Centralized system to document property holdings</i>		
	Women's property rights	<i>Legislative provisions confirming the specific rights of women to own and dispose of property freely</i>		
		<i>% of women property owners</i>		
		<i>Social norms that operate to dissuade women from exercising their property rights</i>		
		<i>Specific provisions to protect women from forced disposition</i>		
		<i>Legal framework adequately and fairly balances Islamic inheritance and women's property rights</i>		
		<i>Perception of women's property rights</i>		
		Freedom of movement	<i>Right of women to obtain a travel document without permission</i>	
			<i>Right of women to freely move without permission in practice</i>	
		Identity rights	<i>Right to nationality enshrined in legislation</i>	
<i>Right of both parents to pass nationality to children</i>				
<i>Legislative protection against the confiscation of an identity document</i>				
<i>Legal provisions sufficient to protect against statelessness</i>				
<i>Ability to obtain an identity document without financial or practical burden</i>				
<i>Right of women to obtain an identity document without permission</i>				
<i>No discriminatory legal classification (including on identity documents) on the basis of parentage (children born outside of wedlock) or religion</i>				
<i>Women able to register the birth of a child</i>				

		<i>without permission, a marriage certificate or risk of legal sanction, and without financial or practical burden</i>	
		<i>Rate of birth registration</i>	
		<i>Number of stateless persons in country</i>	
Labor rights	General protections	<i>Right to safe working conditions, minimum working hours and minimum salary enshrined in legislation that provides equal protection to men, women and migrant workers</i>	
		<i>Specific protections for migrant and domestic workers on the right to privacy and freedom of movement.</i>	
		<i>Systems to guarantee wage payment</i>	
		<i>Reporting mechanisms for offences that are accessible and safe</i>	
		<i>Legislative protection against forced labor that provide equal protection to migrant workers</i>	
		<i>Penalties for forced labor that reflect the gravity of the offence</i>	
		<i>Specific definition of child labor with aggravated penalties</i>	
		<i>Right to change employers (with appropriate safeguards that allow regulation of migrant workers)</i>	
		<i>Perception of crimes against migrant workers</i>	
		<i>Criminalization of sexual harassment with equal protection to men and women</i>	
	Women's labor rights	<i>Legislation contains no gender discriminatory provisions</i>	
		<i>Legislation does not allow husbands a right to restrict the working rights of women</i>	
	Protection against trafficking	<i>Definition and criminalization of trafficking that provides equal protection to men, women, children and migrant workers</i>	
		<i>Penalties that reflect gravity of the offence</i>	
		<i>Aggravated penalties when the victim is a child</i>	
		<i>Availability of shelters for trafficking victims</i>	
		<i>Number of reported cases</i>	
<i>Number of convictions</i>			
Children's access to justice	General protections	<i>Age of criminal responsibility reflects international guidelines</i>	
		<i>Juvenile courts and judges</i>	
		<i>Diversionsary arrangements including probation, mediation, counseling, and community</i>	
		<i>Proportion of cases diverted</i>	
		<i>Rates of child detention</i>	
		<i>Officers or specific protection agents at police stations</i>	
		<i>Protection against the death penalty</i>	
		<i>Mandatory reporting of sexual offences and violence against children</i>	
		<i>Accessible, confidential, child-friendly and safe reporting channels for sexual and abuse cases against children</i>	
		<i>Guidelines for receiving child complaints are provided with clear guidance and child-sensitive investigation procedures</i>	
		<i>Training of protection agents in child complaints mechanisms</i>	
		<i>Crimes against children regarded with requisite seriousness</i>	
		<i>Violence at schools and homes criminalized</i>	
<i>System to quantify and track violence</i>			

		<i>against children through multiple agencies</i>	
		<i>Age for marriage 18 and from 16 with court's permission with sufficient safeguards</i>	