

**Civil Society Report on the Status  
of Implementation of the Convention on the Rights  
of Persons with Disabilities in Jordan**

**“Mirror of Reality and a Tool for Change”**

**January 2012**

**[www.crpjordan.org](http://www.crpjordan.org)**

### ***Call for Endorsement***

The report team calls on members of the Civil Society Coalition that worked since 2009 to prepare the Report on the Status of Implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in Jordan, as well as civil society organizations (CSOs) and activists, to read the full report and endorse it on the website:

[www.crpjordan.org](http://www.crpjordan.org).

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**Edited by: Dr. Muhannad Al-Azzeh**

The final versions of the report and the Executive Summary were reviewed, endorsed and released by a team of individuals that were elected by the Civil Society Coalition working on the Report since 2009. The team in alphabetical order is comprised of Bakr Al-Hazaimeh, Fare' Al-Masaeed, Maha Al-Nahhas, Mahmoud Abu-Hamam, Raafat Al-Zitawi, Raed Al-Khattab and Shaman Al-Majali.

# Table of Contents

<b>Foreword</b>	<b>8</b>
<b>Acknowledgements</b>	<b>10</b>
<b>Disclaimer</b>	<b>10</b>
<b>Jordan Country Profile</b>	<b>11</b>
<b>Abbreviations</b>	<b>14</b>
<b>Introduction</b>	<b>17</b>
<b>Report Methodology</b>	<b>20</b>
<b>Executive Summary</b>	<b>23</b>
<b>Articles (1-4): Purpose, Definitions, General Principles and General Obligations</b>	<b>47</b>
<b>Article (5): Equality and Non-Discrimination</b>	<b>56</b>
<b>Article (6): Women with Disabilities</b>	<b>60</b>
<b>Article (7): Children with Disabilities</b>	<b>65</b>
<b>Article (8): Awareness-Raising</b>	<b>71</b>
<b>Article (9): Accessibility</b>	<b>75</b>
<b>Article (10): Right to Life</b>	<b>81</b>

Article (11): Situations of Risk and Humanitarian Emergencies	84
Article (12): Equal Recognition Before the Law	89
Article (13): Access to the Justice	97
Article (14): Liberty and Security of the Person	103
Article (15): Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment	108
Article (16): Freedom from Exploitation, Violence and Abuse	113
Article (17): Protecting the Integrity of the Person	118
Article (18): Liberty of Movement and Nationality	124
Article (19): Living Independently and Being Included in the Community	128
Article (20): Personal Mobility	132
Article (21): Freedom of Expression and Opinion, and Access to Information	135
Article (22): Respect for Privacy	139
Article (23): Respect for Home and the Family	143
Article (24): Education	148
Article (25): Health	155
Article (26): Habilitation and Rehabilitation	161

Article (27): Work and Employment	166
Article (28): Adequate Standard of Living and Social Protection	173
Article (29): Participation in Political and Public Life	179
Article (30): Participation in Cultural Life, Recreation, Leisure and Sports	184
Article (31): Statistics and Data Collection	190
Article (32): International Cooperation	194
Article (33): National Implementation and Monitoring	198
References	204

# Foreword

[Back to content page](#)



## ***Foreword***

Over two years ago, a group of civil society organizations (CSOs) working in the field of disability and individuals active in the field of human rights formed a Coalition to investigate and analyze the status of the rights of Persons with Disabilities at the level of policy legislation and practice in Jordan. The goal was to prepare the first civil society shadow report on the Jordanian State's commitment to implementing the Convention on the Rights of Persons with Disabilities (CRPD).

At the time of the release of this report, Jordan had yet to submit its official report to the United Nations' CRPD Committee or to honor the formal date for publishing and discussing the governmental report. In light of this, the team elected by members of the Coalition on October 2011 decided to publish a summary of the efforts made in the last two years to collect available information and data, analyze policies and legislation, monitor practices, and survey the opinions of more than 400 people concerned with the issue across the Kingdom. The findings are hereby presented in the final versions of the report and the Executive Summary.

The team would like to take this opportunity to express its gratitude to the members of the Coalition for their confidence, and presents them in particular, and CSOs in general, including human rights organizations and human rights activists, with the Civil Society Report on the Status of Implementation of the Convention on the Rights of Persons with Disabilities in Jordan. The team invites organizations and activists to read and endorse the report so that it may serve as a reference document for civil society active in the area of disability, one that reflects reality and acts as an effective tool for influence and change. Finally, the team recommends that the report be elevated to the United Nations' CRPD Committee, taking into consideration the need to review and update it in light of developments that may take place at the policy, legislation, and practice levels in the field of disability, until it is time for Jordan to submit its official report to the United Nations.

The Coalition that has been involved in the preparation of the Report included 18 CSOs and 40 activists in the field of the rights of Persons with Disabilities.

They are in alphabetical order as follows:

**Organizations:** Abu Al-Darda' Society, Al Mansheyeh Society for Special Needs, Al Rajef Society for Special Education, Al Roa'a Society for the Blind, Aman Center for Special Education, Aya Center for Special Education, Child Care Society, Ghor Al Safi Society for Social Development, Ja'far Charitable Foundation for Special Education, Khaldiya Charitable Society/Mafraq, Khaldiya Society for Special Education/Karak, Kharja Charitable Society, Khotwetna Society for Persons with Psychosocial Disabilities, Madar International Center for Special Education, Prince Ali Club for the Deaf/Irbid, Mustaqbal Club for Physical Disability, the South Society for Special Education, and Yarmouk Society for the Care of Persons with Disabilities.

**Individuals:** Abdullah Al-Khawaldeh, Akram Al-Zoubi, Amira Al-Jamal, Ashraf Hamodeh, Bakr Al-Hazaimah, Fare' Al-Masaeed, Hadeel Al-Farr, Hassan Mheirat, Hiba Melhem, Ibrahim Al-Zyoud, Ikram Marashdeh, Indira Al-Tarawneh, Jalal Al-Beshtawi, Jihan Sweiti, Khaled Al-Tarawneh, Laila Najjar, Maha Al-Nahhas, Mahmoud Abu-Hamam, Mohammed Nabulsi, Mohammed Nassar, Mohammed Obaidat, Mohammed Omari, Mohammad Sami Harzallah, Mohammad Al-Tawalbeh, Mona Ushiebat, Menwer Al-Salem, Mutaz Juneidi, Naim Al-Ghoul, Raed Al-Khattab, Raafat Al-Zitawi, Reem Rawajfeh, Rehab Mahmoud, Sadeq Wazani, Samira Khatib, Sana Abu Nabah, Shaman Al-Majali, Taghreed Yassin, Wafaa Al-Khatib, Waseela Bakeer, and Yousef Madhoun.

### ***Acknowledgements***

The report team wishes to express on its behalf and on behalf of members of the Coalition, its gratitude to everyone who contributed to the preliminary process of the preparation of this report through the collection of data and information and the contribution of life experiences, case studies and focus groups, and the provision of feedback and advice throughout the past two years.

The report team also highly appreciates the cooperation of many governmental and semi-official agencies, national institutions and CSOs, who were generous in providing available information, data and views on present challenges and future prospects in the field of the rights of Persons with Disabilities.

The report team also expresses special thanks to Afaf Jabiri who laid the cornerstone for the initiative of preparing and launching the report.

Finally, the team presents its thanks to the Civil Society Program (CSP) represented by its Director, Frances Abouzeid, and the staff, in particular Anas Shtiwi, Tareq Bakri and Diana Haddadin, who spared no effort to support the process of preparing the report and provided everything necessary to facilitate its optimal completion and launch.

### ***Disclaimer***

The preparation of this report was supported by the Jordan Civil Society Program (CSP). It should be noted that all opinions expressed in the report and the Executive Summary represent the views of the report team and the organizations, associations and individuals that adopt them, and do not necessarily reflect the views of CSP.

**Back to content page**



# Jordan Country Profile

[\*\*Back to content page\*\*](#)

## ***Jordan Country Profile***

The Hashemite Kingdom of Jordan is an Arab state with the city of Amman as its capital. Located in south west Asia, it is one of the countries of the Middle East and a member state of the League of Arab States and the United Nations. The total area of Jordan is 89,213 square kilometers, with an estimated desert area covering 75%. The country is administratively divided into 12 governorates, spread over the North, South and Center. They are Amman (the capital), Irbid, Zarqa, Mafraq, Ajloun, Jerash, Madaba, Balqa, Karak, Tafileh, Ma'an and Aqaba. Each governorate includes a number of districts and provinces. The number of districts is 48 while the number of provinces is 38.

Jordan gained its independence from Britain in 1946. It is a constitutional monarchy where the King exercises his Executive authority through the Prime Minister and Council of Ministers.

The legislative authority in Jordan is made up of the House of Representatives and the Senate. Election to the House of Representatives is by direct vote every four years according to the one-person one-vote system, while the King directly appoints members of the Senate (1).

The General Census of Population and Housing, conducted by the Department of Statistics (DOS) of Jordan in 2004 estimated Jordan's population at 5.3 million. The Department estimated the total number of people on June 12, 2011 to be 6,239,567 persons, with an average annual increase of 2.4%.

The Population and Family Health Survey for 2009 conducted by DOS in collaboration with some international donors estimated the percentage of females at 49.6% of the total population. The results of this survey indicated that 37% of the population of Jordan is under the age of 15 and the population is expected to double by the middle of the third decade to about 11.7 million people (2). The distribution of population in the governorates of Jordan is variable to a large extent, with the four governorates in the south (Karak, Ma'an, Tafileh, Aqaba), which form 51% of the area of Jordan, being populated by only 9% of the total population.

The concentration of population in the four smaller governorates of the North (Irbid, Mafraq, Ajloun, and Jerash) is greater, accounting for 28% of the total population, even though the North constitutes 33% of the total area of the Kingdom. The biggest percentage of the population, which is 63%, is concentrated in the four Central Governorates (Amman, Zarqa, Balqa, Madaba), which are the smallest in terms of area, occupying 16% of the area of Jordan (3).

Jordan's Constitution stipulates that the state religion is Islam and that Arabic is the official language(4).

Jordan enjoys a high level of security and stability, despite its geographical location which puts it in the heart of events in a region that is rife with armed conflicts and wars. It is considered a safe haven for those fleeing war, and a transit point for those seeking asylum in other countries. The estimated number of Palestinian refugees living in Jordan is estimated at two million refugees and the number of Iraqi refugees is nearly 25,700 (6).

Jordan is one of the countries that enjoy a high level of education among its population. The estimated rate of illiteracy among the population aged 15 years and over is 7% and the number of students enrolled

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1- Official Website of E-Government of Jordan [http://www.jordan.gov.jo/wps/portal/MyArabicPortal/?New\\_WCM\\_Context=/wps/wcm/connect/gov/%24%24!!941/%24%24!!945/%24%24!!1001](http://www.jordan.gov.jo/wps/portal/MyArabicPortal/?New_WCM_Context=/wps/wcm/connect/gov/%24%24!!941/%24%24!!945/%24%24!!1001)

2- Department of Statistics [http://www.dos.gov.jo/dos\\_home/dos\\_home\\_a/main/index.htm](http://www.dos.gov.jo/dos_home/dos_home_a/main/index.htm)

3- Jordan Armed Forces <http://www.jaf.mil.jo/Ar/History.aspx>

4- [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

5- <http://www.unrwa.org/atemplate.php?id=116>

6- <http://www.unhcr.org/pages/49e486566.html>

in all levels of education 1.8 million students, i.e. 31.5% of the total population of Jordan. The estimated number of female students is 932,300 makes up 49.5% of the total number of students (7). According to World Bank classifications, Jordan is in the lower category for middle income countries, and the average per capita gross national income was \$3,730 in 2009 (8). Natural resources of Jordan consist of potash and phosphate. Agricultural land is limited with severely scarce water resources. In 2009, Jordan's GDP stood at JD 9,514.4 million, compared to JD 5,418.7 million in the year 2000. The rate of unemployment reached 12.9% in 2009, up .2 percentage points from the year 2008. The percentage of those unemployed for more than a year was 34.3%, while the proportion of employed women aged 15 years and up is 16.4% of the total number of those employed (9).

The Status of Poverty Report in Jordan issued by DOS in July 2010 notes that the poverty rate in 2008 stood at 13.3% which is the proportion of individuals whose spending falls below the average poverty line in the Kingdom. The absolute poverty line (food and non-food) was JD 680 per person per year (or JD 57 per person per month). At the standard household level, the poverty line reached JD 3,876 per year (JD 323 per month), and the family abject poverty line (food poverty line) for a family made up of 5.7 individuals had a value of JD 138.7 per month, noting that the food poverty line reached JD 292 per person per year (JD 24.3 per person per month) while the number of persons below the abject poverty line for the year 2008 was about 15,000 persons (10).

With regard to Jordan's position vis-a-vis major human rights conventions, the State has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Cultural and Social Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the Convention against Torture, the Conventions against Racial Discrimination, and the Geneva Conventions on International Humanitarian Law.

It should be noted that Jordan has not ratified any of the optional protocols to these agreements that allow individuals to directly submit complaints to the specialized United Nations (UN) monitoring committees, according to the mechanisms adopted by the UN for this purpose.

Jordan has also expressed certain reservations on some of these agreements, including the reservation on Article 9 /2 of the Convention on the Elimination of All Forms of Discrimination against Women, which ensures equality between men and women in passing citizenship on to a husband and children.

Although Jordan has ratified most of these agreements early on, as is the case for example with the international covenants which were ratified by the State in 1975, as well as the Convention on the Rights of the Child in 1991, their publication in the Official Gazette and their entering into force came very late, as the process of publishing the agreements and covenants referred to above in the Official Gazette began in 2006, after more than 30 years in case of the two international covenants, and 15 years in the case of the Convention on the Rights of the Child. As for the Convention on the Elimination of All Forms of Discrimination against Women, it was ratified by Jordan in 1992, and published in the Official Gazette in 2007, 15 years after ratification. The Convention on the Rights of Persons with Disabilities was published the fastest, as it was signed in 2007 and approved and published in the Official Gazette in 2008.

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7- National Center for Human Resources Development <http://www.almanar.jo/AlManarWeb/Default.aspx?PageContentID=614&tabid=113>

8- [http://www.dos.gov.jo/dos\\_home\\_a/main/index.htm](http://www.dos.gov.jo/dos_home_a/main/index.htm)

9- Department of Statistics [http://www.dos.gov.jo/dos\\_home/dos\\_home\\_a/main/index.htm](http://www.dos.gov.jo/dos_home/dos_home_a/main/index.htm)

10- <http://www.hpc.org.jo/hpc/tabid/198/ctl/details/mid/580/articleID/136/checkType//Default.aspx>

# Abbreviations

[Back to content page](#)

CRPD	Convention on the Rights of Persons with Disabilities
Questionnaire	Questionnaire measuring the level of satisfaction of stakeholders in the exercise of certain rights and access to basic services, which were designed by the Coalition and distributed in the Kingdom's various governorates
National Strategy	National Strategy for Persons with Disabilities which was adopted in Jordan in 2007
National Strategy - Phase I	National Strategy for Persons with Disabilities Phase I (2007-2009)
National Strategy - Phase II	National Strategy for Persons with Disabilities Phase II (2010-2015)
Coalition	Coalition of civil society organizations working in the field of disability and activists in the field of human rights, which was formed in 2009 to work on the preparation of the Report on the Status of Implementation of CRPD
Reasonable Accommodation	Means and requirements for Persons with Disabilities to practice their basic rights and freedoms on an equal basis with others and without discrimination, as provided in Article (2) of CRPD and Article (2) of the Law of the Rights of «Disabled» Persons No. 31/2007 under the heading: Reasonable Preparations.
The report	Report on the Status of Implementation of CRPD in Jordan (Mirror of Reality and a Tool for Change)
The team	Team of individuals elected by the Coalition for the preparation of the final version of this report and representing it at the national level
Law No. 31/2007	Law of the Rights of "Disabled" Persons No. 31/ 2007
Building Code	Special Building Code Requirements for Persons with Disabilities
Higher Council	The Higher Council for The Affairs of Persons with Disabilities
Consultative meetings	Series of meetings, gatherings and forums held during the preparation of the report to gather information, data and feedback on report content
DPOs	Disabled Persons' Organizations
CSOs	Civil Society Organizations

# Introduction

***“Following tradition does not mean that the dead are alive, but that the living are dead.”***

***Ibn Khaldun 732-808 Hijri - 1332-1406 A***

[Back to content page](#)



## ***Introduction***

Two of the most critical barriers to people's ability to change are deeply-rooted social traditions and heritage. These barriers are profoundly settled in the collective conscience of nations and peoples, to the extent of being perceived as holier than religions and higher than the laws of the land.

Human rights principles and related covenants and agreements are not immune to these challenges. They are more likely to be rejected and not tolerated, due to casing them with issues related to cultural values, customs and traditions, prevailing norms, foreign agendas and other suspicions raised by some to hinder the paradigm shift from the individual services-based welfare approach to the approach based on rights, demands and advocacy.

There is no doubt that the issue of disability is one of the most critical issues directed by social heritage, tradition, customs and collective societal beliefs. These factors freeze its progress and halt any attempt to bring about related change and transformation.

In the case of disability, the issue is continuously being exploited by some sectors of society, either as a way to show goodwill and get heavenly rewards, or as an easy way to be visible and score achievements. It is one of the most marginalized issues with low achievement rates and a great deal of praise for the simplest of steps and initiatives.

It is no longer unusual for a ministry to provide basic services to citizens and score points for it. Therefore, initiatives to establish bodies exclusively for Persons with Disabilities, or the distribution of certain resources to them, for example, are now anecdotes that circulate widely and are added to the archives of success stories and indicators for achieving goals and objectives.

In fact, development and shifts in the area of disability in Jordan cannot be separated from the general context related to the State's position and the slow-paced movement towards harmonizing it with human rights principles contained in international treaties and conventions, which Jordan committed to when it ratified and joined these agreements.

After more than half a century of hesitating and wavering between the requirements for activating international human rights conventions and achieving harmony with global developments on the one hand, and balancing considerations of the local, political, and cultural context and social heritage on the other, the past decade saw Jordan publish a considerable number of these agreements in the Official Gazette<sup>(11)</sup>, to enter into force at the national level, and become part of national legislation.

Jordan kept up with other Arab countries, and in fact was at the forefront of these nations to sign and ratify CRPD, which it published in the Official Gazette in 2008, responding to shifts at the regional and international levels. This is an important achievement that is well worth mentioning and noting.

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11- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=1](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=1)

During the second half of the last century, the disability field in Jordan has witnessed development that is limited in number, poor in quality, and slow-paced. The predominance of the charitable welfare approach contributed to dealing with the rights of Persons with Disabilities and their issues in a non-systematic manner, as one can account for individual initiatives by some organizations, charities, and activists during the seventies and eighties, which were limited to providing a range of services and meeting pressing individual needs. The adoption of the General Assembly of the United Nations for the Standard Rules on Equalization of Opportunities for Persons with Disabilities in 1993 laid the foundation to shift from the welfare approach to the inclusive approach based on rights and respect for the privacy and independence of a Person with Disability.

Jordan sought to harmonize with this new standard and thus issued the first special law with respect to Persons with Disabilities in 1993, the Law of Welfare and Rehabilitation of Persons with Disabilities, No. 12/1993. The Law reflected the beginning of the formation of political will at the national level pushing for reviewing and enhancing the status of Persons with Disabilities. Despite the welfare approach adopted by the 1993 Law, it did constitute a turning point in the way the Jordanian State handles the issue of disability in general. It should be noted that this law faced the same obstacles as the current Law No. 31 /2007, in terms of restricting and not applying its texts due to the absence of the procedural rules and regulations necessary to enforce it on the ground.

In a later step, Jordan emerged as an active member in various stages of negotiation and drafting of the CRPD at the United Nations between 2002-2006. Jordan did not express any reservations about the text and provisions relating to fundamental rights and freedoms governed by CRPD, although it has yet to ratify the Optional Protocol associated with the Convention.

In 2006, in an unprecedented move at the national level, the Jordanian Ministry of Political Development launched an initiative for legislative reform in the area of the rights of Persons with Disabilities, calling on activists with disabilities and Disability People Organizations (DPOs) and the various executive bodies to formulate a new law that is aligned with CRPD's principles and detailed provisions. The result was the Law on the Rights of Persons with Disabilities - No. 31 /2007, which constituted yet another important milestone in the legislative process through a participatory approach that was unprecedented in the region.

A Royal Decree was issued in 2006 to review the situation of the rights of Persons with Disabilities and develop a National Strategy governing their issues and rights, guided by CRPD's principles and general obligations. A Royal Committee was set up with government and DPO representatives, in addition to select activists from CSOs. The Committee drafted the National Strategy for Persons with Disabilities (2007-2015), which was split into two phases: Phase I (2007-2009) and Phase II (2010-2015). The establishment of The Higher Council for The Affairs of Persons with Disabilities (Higher Council) came in response to Article (6) of Law No. 31/2007, to monitor the implementation of the provisions of the Law and the strategy in its two phases.

These initiatives culminated recently in the accomplishments of the campaign TAKAFO' to promote the Rights of Persons with Disabilities <sup>(12)</sup> in coordination with the Higher Council. The campaign succeeded to include constitutional amendments which were adopted in 2011, to refer to Persons with Disabilities in paragraph (4) of Article (6) of the Constitution.

In the end, the new constitutional text proved contrary to the campaign's suggestions, as it failed to include statements promoting human rights and achieving equality, and instead employed a welfare framework that does not meet the aspirations and ambitions of Persons with Disabilities. However, the response of the legislature to this requirement surely constitutes a major step towards mainstreaming disability issues in the State's political and public affairs.

Despite the above steps' collective value and impact, especially with regard to revitalizing the legislative and civil movements, there are reservations about the underlying approach and philosophy on which they were built. They did not reflect a real shift from the welfare approach to the inclusive, rights-based approach and also failed to fully realize the desired consistency with the principles of CRPD, its provisions and the purpose of its issuance.

At the same time, the effectiveness of the provisions of the new Law and the National Strategy remain subject to question and criticism. This is due to the rigidity and lack of application, because of the procedural vacuum caused by absence of regulations, executive instructions and programs to enforce the provisions of the Law and the terms of the National Strategy within the specified timeframes.

On the other hand, a review of strategies, national plans and programs reveals a failure to adequately mainstream the rights and issues of Persons with Disabilities. This signals that the inclusive approach to the issue of disability has not been firmly adopted, and that disability has not been presented as part of human diversity and humanity. This conveys a different approach to exercising rights and fundamental freedoms.

Practical application and what Persons with Disabilities face, in terms of direct and indirect discrimination and exclusion while exercising their rights and attempting to access public services that are available to all, provide proof of the procedural gaps and shortcomings in national and procedural legislation. This also confirms that principles of human rights and those of CRPD have not been integrated into the public domain.

In light of what was noted, this report on Jordan's commitment to obligations required by CRPD, monitors legislative reality and policies and analyzes their compatibility with CRPD principles and provisions. In addition, it supports findings and results with practices, experiences and real-life cases of experts, DPOs and stakeholders with disabilities without neglecting the views and opinions of executive bodies and decision-making centers whenever possible.

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12- <http://www.takafo.org>

# Report Methodology

[Back to content page](#)

The report followed an extensive participatory approach, employing a comprehensive review of legislation, national strategies and related executive plans. These elements were analyzed with consideration for the extent to which they comply with the principles and provisions laid out in the CRPD. The report also relied on collecting information and data from official sources where available. Feedback from concerned stakeholders, practical applications and personal experiences also formed the backbone for the report and its structure.

Content related to the case studies and interviews presented in the report's various parts was shared in its final form with those who were interviewed, after their feedback and comments were integrated into the findings. The report team also obtained these individuals' written informed consent to use the material.

The report's methodology can be summarized into the following guidelines and processes:

1. Adopting the guiding principles issued by the United Nations' CRPD Committee as a general framework for the report's structure and layout.
2. Reviewing the texts of laws, regulations and various instructions relating to civil, political, economic, cultural, social rights and fundamental freedoms, and those regulating access to public facilities and services, and monitoring stated provisions, and analyzing how they address the rights of Persons with Disabilities and their issues, and what measures are lacking in this regard. Specifically, the team reviewed and analyzed more than 36 laws, 16 statutes, and 8 executive instructions.
3. Reviewing and analyzing more than 14 policies and national strategies and eight implementation plans belonging to the various executive governmental and semi-official bodies and national councils to determine if and how they address the rights of Persons with Disabilities and their issues.
4. Reviewing and analyzing more than 23 annual and periodic reports, research and specialized studies from government agencies, research centers and the National Center for Human Rights (NCHR) and CSOs, which examined the rights of Persons with Disabilities and their situation in Jordan from 2004 until now.
5. Distributing a questionnaire with a set of specific questions related to measuring the level of satisfaction of Persons with Disabilities and DPOs with regard to enjoying and exercising their rights and freedoms and accessing basic services.
6. Conducting more than 13 interviews with the various executive bodies, including ministries, government departments, institutions and national councils, as well as service providers and CSOs and some banking institutions, to explore their views and opinions and investigate the extent of their plans' and programs' inclusion of Persons with Disabilities and their rights and issues.
7. Identifying specific examples of discrimination and various forms of violations committed against Persons with Disabilities in one or more rights on the basis of disability, through completing more than 12 case studies with Persons with Disabilities.
8. Organizing three focus groups on the right to education and the situation of deaf students in the age group (12-16) at the level of elementary education. These groups included deaf children, parents, teachers and sign language interpreters from different regions of the Kingdom.
9. Surveying the views of Persons with Disabilities on specific and specialized issues in one or more areas through 16 interviews with experts and specialists from various fields.
10. Undertaking more than 10 field visits to institutions and centers working in the field of disability, to closely examine the reality of environmental and attitudinal situations there.
11. Monitoring more than 31 news articles and investigative reports related to the rights and issues of Persons with Disabilities, and specific cases of violation or discrimination against them on various levels.

12. Preparing the first draft of the report, discussing and adopting it by members of the Coalition.

13. Holding six regional and seven local consultative meetings in different regions of the Kingdom and its governorates, with participation from more than 400 activists with disabilities, DPOs, service providers and CSOs. The meetings served to collect feedback on the content of the report, as well as gather stakeholders' personal experiences and real stories about the environmental and attitudinal barriers they face in exercising their rights and fundamental freedoms and accessing public facilities and services. The data was included in the final report, significantly enriching its content.

14. Tracking the websites of executive bodies and national institutions and CSOs on a regular and ongoing basis, as they relate to the report's various components, up until the release of the report and Executive Summary.

### **Some of the Challenges Faced in the Process of Preparing the Report**

The process of preparing the report faced enormous and varied challenges, which can be grouped and summarized as follows:

**First:** Technical challenges, including:

1. Extreme weakness in the literature and documented information about the rights of Persons with Disabilities and their issues
2. The absence of accurate official statistics on Persons with Disabilities, not only in terms of numbers and the census, but also in terms of their enjoyment of rights and freedoms and their access to basic services, including the quality and geographical distribution of these services and their ability to fulfill individuals' actual needs
3. Lack of clarity of roles, responsibilities and powers of the different executive bodies, which required a great deal of effort on the part of team members to identify jurisdiction every time they communicated with an entity to obtain information or assess the inclusiveness of programs and services
4. Failure to document cases of violation and discrimination committed against Persons with Disabilities, given the lack of a specific national mechanism and guidelines to combat discrimination and track cases.

**Second:** Procedural and practical challenges, including:

1. Difficulty in communicating with governmental and semi-official agencies and the need to go through lengthy bureaucratic procedures;
2. Challenge in accessing certain remote areas and poverty pockets, in order to investigate the situation and involve stakeholders in the process of preparing the report which required great effort and time to accomplish to a satisfactory standard;
3. Weakness of communication by e-mail and through websites with Persons with Disabilities and some organizations and service providers which necessitated the use of alternative means of communication that required considerable effort and time; and
4. Poorness of accessible means of transport especially in remote areas which made it difficult to determine venues for consultative meetings and dialogue forums, and prevented some Persons with Disabilities from reaching these locations.

# Executive Summary

**The process of preparing the report, according to the comprehensive methodology described above, led to a set of results, findings and general recommendations that can be summarized as follows:**

**[Back to content page](#)**

# 1

## The Reality of Definitions and Basic Concepts in National Legislation and at the Policy Level

Upon reading and analyzing various legislative texts and provisions, as well as policy terms and different strategies, the report concludes that legislators and policy-makers in Jordan adopt a medical welfare angle when defining disability and Persons with Disabilities. They describe them as mere cases of «deficiency» or "limitation" in capacity, according to provisions of Law No. 31 /2007 <sup>(13)</sup>, particularly Article (2) which provides an educational medical description of the state of disability limiting it to forms of «deficiencies» in the field of education, employment or training, without noting the critical role that environmental and attitudinal constraints play in preventing active participation and equal opportunities for Persons with Disabilities.

This medical approach has led to the exclusion of many people with actual disabilities from the application of legal texts, strategies, plans and programs related to the rights of Persons with Disabilities. For example, persons with invisible disabilities and persons with psychosocial disabilities are seen by some as mere "cases of sickness", and not as Persons with Disabilities. As such, provisions of Law No. 31/2007 and related legislative texts do not apply to such persons.

In its definition of the target group, the National Strategy - Phase II <sup>(14)</sup> adopted the same definition for Persons with Disabilities established in the preamble and Article 1 of CRPD. However, there are significant uncertainties around the legal effect of this step, as questions arise about the application of each of the two texts (the text of the Law and that of the National Strategy-Phase II) and the validity of each. The law is binding in enforcement and application, but that does not seem to be the case for measures and provisions contained in non-binding strategies and plans, in the event of incompatibility with legal texts.

13- Law No. 31/2007 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

14- National Strategy - Phase II p. 38 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>



As such, reality reveals that the prevalent trend in executive bodies is to prioritize the medical perspective for disability, with reference to environmental and attitudinal factors and barriers. It does not seem surprising in this case that the legislature and executive bodies rely on medical reports as the entry point for Persons with Disabilities to exercise their rights and fundamental freedoms, as detailed in other sections of the report (for more information, see Article (22): Respect for Privacy, Article (24): Education, and Article (27): Work and Employment in the report).

It is noted that the Jordanian legislature scored a noticeable achievement in the Law No. 31/2007, whereby provisions were included with regard to reasonable accommodation and non-discrimination. However, the mention of these concepts and principles in the absence of effective mechanisms for implementation has made them mere advisory provisions and principles that are not translated on the ground.

Further, there is no systematized documentation on violations or discrimination cases in Jordan, nor guidelines and regulations to combat these. Moreover, DPOs employ a charitable approach to demand and access services, resulting in a theoretical and practical vacuum in this area. This has prevented the rooting of non-discrimination, advocacy and lobbying concepts - foundations of effective civil society work in defending rights and freedoms - in the legal framework and in the human rights principles outlines in international conventions.

# 2

## The Extent to Which the Rights of Persons with Disabilities and their Issues are Mainstreamed in the Public Domain

The extensive review of the strategies, plans and programs of the various executive bodies shows that the rights of Persons with Disabilities and their issues are not on these entities' list of priorities. Few of these bodies refer to Persons with Disabilities within medical preventive measures or welfare service-based contexts, which is far from achieving integration and active participation in the broad sense, as adopted by CRPD's general principles and detailed provisions.

For example, the Ministry of Health's <sup>(15)</sup> Strategic Plan deals with Persons with Disabilities in the Introduction discussing Primary Health Care, without any mention of ensuring their access to health facilities on an equal basis with others (for more information, see Article (25): Health in the report).

The same applies to the National Plan for Children for the years 2004-2013 <sup>(16)</sup> (for more information, see Article (7): Children with Disabilities in the report) and the National Strategy for Jordanian Women 2006-2010 <sup>(17)</sup> (for more information, see Article (6): Women with Disabilities and Article (27): Work and Employment in the report) and the strategic plans of the Ministry of Labor <sup>(18)</sup> , which are void of effective measures to ensure provision of reasonable accommodation, and the necessary accessibility means for Persons with Disabilities to exercise their right to work on the basis of equality and equal opportunities (for more information, Article (27): Work and Employment in the report).

At a time where the Directorate of "Disabled" Persons' Affairs at the Ministry of Social Development provides several specific welfare services, the plans and programs implemented by the Ministry <sup>(19)</sup> do not promote the strengthening of the inclusive approach, which achieves the mainstreaming of disability issues in the public domain (for more information, Article (24): Education, Article (26): Habilitation and Rehabilitation, and Article (27): Work and Employment in the report).

15- Strategic Plan of the Ministry of Health (2008-2012), Ministry of Health [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20.pdf.pdf](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20.pdf.pdf)

16- National Strategy for Childhood (2004-2013) National Council for Family Affairs <http://www.ncfa.org.jo/Portals/1/Publications/Plan%202.pdf>

17- National Strategy for Jordanian Women (2006-2010) p. 32-33, Article 7: area of special needs, the Jordanian National Commission for Women.

18- <http://www.mol.gov.jo/Portals/0/Mol%20Strategy/mol%20strategy2010-2012.pdf>

19- <http://www.mosd.gov.jo>

As for plans and special instructions for emergency services and protection from violence and exploitation, the Directorates of Civil Defense and Public Security fail to address Persons with Disabilities and access requirements related to such services (for more information, Article (11): Situations of Risk and Humanitarian Emergencies, Article (13): Access to Justice, and Article (16): Freedom from Exploitation, Violence and Abuse in the report).

With the exception of Law No. 31/2007 and provisions contained in the "Special Building Code Requirements for People with Disabilities" (20) (Building Code), one can hardly find a sentence or a measure in the system of national legislation relating to reasonable accommodation and environmental accessibility, to ensure access for Persons with Disabilities to enjoy the full rights and fundamental freedoms and services guaranteed by those regulations. For example, the Public Health Law (21), to ensure access to information and publishing (22), the Law on Protection from Family Violence (23) and the laws of various unions (24), in addition to the instructions of ministries and various bodies (25), all lack the necessary effective measures to allow Persons with Disabilities to exercise their rights and access services and related facilities, so as to achieve equality and equal opportunities without any form of discrimination (for more information, Article (9): Accessibility, Article (19): Independent Living, Article (20): Personal Transport, Article (21): Freedom of Expression and Opinion, and Access to Information, Article (24): Education, Article (25): Health and others in the report).

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20- "Special Building Code Requirements for People with Disabilities", issued pursuant to the provisions of the Jordanian Building Law No. (7) / 1993, and the decision of the Jordanian National Building Board No. (1) / 1992, the Council of Ministers decision No. (3989) / 1993, published in the Official Gazette No. (3887) of that year.

21- Public Health Law No. 47/ 2008 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2008](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2008)

22- Law to Ensure Access to Information [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2007)  
Press and Publications Law [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1998&no=8](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1998&no=8)

23- Law of Protection from Family Violence No. 6/ 2008 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2008&no=6](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2008&no=6)

24- Jordan Medical Association Law [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1972&no=13](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1972&no=13)  
Jordan Engineers Association Law [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1972&no=15](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1972&no=15)

25- Service of access to information from the Department of Documentation in the Department of National Library  
[http://images.jordan.gov.jo/wps/wcm/connect/gov/\\$!!941/\\$!!946/\\$!!1036/\\$!!943/\\$!!2668](http://images.jordan.gov.jo/wps/wcm/connect/gov/$!!941/$!!946/$!!1036/$!!943/$!!2668)  
Instructions organizing Pharmaceutical Media, for the year 2008 issued by the Minister of Health. [http://www.pm.gov.jo/ara/bic/index.php?page\\_type=gov\\_paper&part=3&id=4892](http://www.pm.gov.jo/ara/bic/index.php?page_type=gov_paper&part=3&id=4892)

# 3

## Ineffectiveness of Legal provisions on the Rights of Persons with Disabilities

Although the law is reflective of the state's powers in that its texts are binding through the Constitution, it inevitably requires the issuance of procedural rules and regulations that govern the activation of legal texts, in terms of time, place and individuals who are subject to its provisions. Since no orders nor instructions were issued pursuant to Law No. 31 /2007 to enforce its provisions and implementation, the weakness of its protections and enforcement seem evident, as its provisions lay frozen on the pages of the Official Gazette in which it was published in 2007 <sup>(26)</sup>.

Different executive bodies applied earlier administrative instructions and interpretations that accumulated since the 1970s, ignoring what the legislature passed into Law No. 31/2007. This law was the result of a long struggle waged by Persons with Disabilities and DPOs in which they attained the lowest of aspirations and few of their demands.

At the time of publication of the report and the Executive Summary, no executive body had issued any special instructions for the application of provisions of this Law or any legislative provision relating to the rights of Persons with Disabilities. The one exception is a special regulation the Ministry of Social Development enacted in 2008, relating to the conditions for licensing organizations and centers for Persons with Disabilities, <sup>(27)</sup> which included one sole reference to the Building Code, in Article (6), paragraph (b) Clause (1).

The rest of the special instructions issued by the Ministry of Education <sup>(28)</sup>, the Ministry of Labor, the Ministry of Justice, the Ministry of Health and others, all deal with issues of Persons with Disabilities within narrow borders that are far from the Law's foundations and the principles of CRPD (for more information, Article (24): Education, Article, (25): Health, Article (27): Work and Employment, and others in the report).

26- Official Gazette <http://www.pm.gov.jo/pmstatements/image.aspx?cabname=govpaper&dwid=28256>

27- Regulations of centers and institutions for Persons with Disabilities No. 96/2008 [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=96&year=2008](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=96&year=2008)

28- Regulations organizing the work of special education centers and institutions for Persons with Disabilities and licensing them <http://www.moe.gov.jo/NewPages.aspx?PageID=jzZTohkdyo>  
Pass/Fail criteria & basis for the scholastic year 2009-2010 [http://www.moe.gov.jo/Files/\(4-10-2010\)\(10-39-45%20AM\).doc](http://www.moe.gov.jo/Files/(4-10-2010)(10-39-45%20AM).doc)

In spite of the value of the Higher Council's recent issuance of Accreditation Standards for Centers and Institutions working in the field of disability (29) and other criteria on the quality of services (30), this cannot be considered a sufficient step in the direction of activating the provisions of Law No. 31/2007, which deals with rights and fundamental freedoms for Persons with Disabilities, according to the jurisdiction of each executive body, without exclusivity, or monopoly. One of the most important recommendations that was expressed by the stakeholders at the end of the First National Conference to Assess the National Strategy - Phase I, organized by the Higher Council at the end of 2009 (31), was the need to activate the provisions of Law No. 31/2007 and other related legislative texts the same result reached by the report team during the consultative meetings conducted for this report (32).

The resulting procedural vacuum in the application of provisions of Law No. 31/2007 and associated legislation has led to a strange legal reality where prior ministerial decisions and administrative instructions have overridden the law, even when contrary to some of its provisions.

A notable example of this inverted legal situation is the Ministry of Health's application of the provisions of the Medical Committees Statute No. 58/1977 (33), which clearly denies jobs to Persons with Disabilities according to tables that include various types and levels of disabilities. Additionally, the Civil Service Statute No. 30 / 2007 (34) and related amendments require "physical fitness" and a certificate from the "medical authority" stating that for an applicant with a disability, their status "does not prevent" them from carrying out their duties. Moreover, the pass/fail criteria (35) adopted and applied by the Ministry of Education violates the right of persons with hearing impairments to equal opportunities in basic education, as it gives the school the authority to fail a deaf student a number of times which exceeds that permitted of others. On the other hand, the same criteria allow promoting deaf students automatically, even if their academic scores are inadequate, once the school has proven that "the reason for this is a disability". Finally, the criteria allow the school the discretion to deprive students with visual disability from mathematics and computer classes.

All these provisions are contradictory, no doubt, to Law No. 31 /2007 in Article (3) General Principles, on non-discrimination and equality, equal opportunities and provision of reasonable accommodation and forms of accessibility and acceptance of disability, as part of human diversity.

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29- Accreditation Standards for Special Education Centers <http://hcd.gov.jo/prog4.htm>

30- Accreditation Standards for Autism and Intellectual Disability <http://www.hcd.gov.jo/arch209.htm>

31- <http://www.hcd.gov.jo/arch127.htm>

32- Consultative meetings held in various regions of the Kingdom to discuss the draft shadow report from June 22 to July 16, 2011.

33- Medical Committees Regulations No. 58 / 1977 [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=58&year=1977](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=58&year=1977)

34- Civil Service Regulations No. 30 / 2007 and amendments [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=30&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=30&year=2007)

35- Pass/ fail criteria and basis for the scholastic year 2009-2010 [http://www.moe.gov.jo/Files/\(4-10-2010\)\(10-39-45%20AM\).doc](http://www.moe.gov.jo/Files/(4-10-2010)(10-39-45%20AM).doc)

# 4

## National Legislation Constituting Forms of Discrimination and Negative Stereotypes

Flaws in national legislation in relation to the rights of Persons with Disabilities are not limited to incompatibility with the principles of CRPD and its purpose, but instead extend as far as some legal texts constituting forms of unacceptable discrimination and negative stereotypes that play a key role in the exclusion of Persons with Disabilities and the systematic violation of their rights. Article (467) of the Jordanian Penal Code No. 16 /1960, for example, states that "it is punishable by a fine of up to JD 5...whoever lets free a harmful animal or an insane person that was under his guard <sup>(36)</sup>". In this text, the public equates a harmful animal that could kill people with a person with a psychosocial disability or what is termed as "insane", in a discriminatory way seldom seen anywhere in the national legislation of other countries.

The texts of the Civil Law No. 43 /1976 <sup>(37)</sup> and the Personal Status Law No. 36 / 2010 <sup>(38)</sup> establish a discriminatory legislative philosophy against persons with psychosocial and intellectual disabilities in the enjoyment of legal capacity. Their provisions do not consider these people worthy of legal capacity and therefore they are not entitled to exercise many of the rights and freedoms or conduct legal actions as others may. The general provision is subject to a few simple exceptions that in a best case scenario, makes certain legal actions by these persons subject to annulment, and not absolute annulment, in accordance with the provisions of Articles (44) and (128) and what follows in Civil Law and Articles (204) and (212) and in the Personal Status Law (for more information, Article (12): Recognition of Persons with Disabilities Before the Law on an Equal Basis with Others in the report).

This restrictive discriminatory philosophy adopted by the Jordanian legislature in the field of civil rights and personal status is not limited to persons with psychosocial and intellectual disabilities, but also includes persons with other disabilities in clear and explicit texts. This is the case in the Notary Law No. 74 / 1951, which regulates the procedural and practical aspects of legal civil and commercial actions. The text

36- Jordanian Penal Code No. 16 / 1960 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=1](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=1)

37- Civil Law No. 43 / 1976 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=43&year=1976](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=43&year=1976)

38- Personal Status Law No. 36 / 2010 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2010)

reflects the highest degree of discrimination and exclusion, as Article (17) of the Law notes that persons with psychosocial or visual disabilities or hearing impairments are not competent to testify in any civil, commercial and other transaction. The Article states "... that witnesses be adults and sensible, understanding the identity of those concerned, and that they do not include a blind or deaf person ... (39)."

The previously mentioned Medical Committees' Statute No. 58/1977 sets a restrictive discriminatory practice that makes medical reports the gateway to exercise the right to work, education, health, insurance and access to various forms of support, assistance, rehabilitation and other rights. This gives physicians free reign to determine if the person being "examined" is fit to exercise his rights and freedoms or not, all in absolute disregard of environmental and attitudinal barriers and the absence of reasonable accommodation, which play a major role in reinforcing the case of disability.

The different executive bodies have adopted this approach and placed the "medical fitness" requirement at the top of instructions for access to services provided for all. The civil service statute and the civil health insurance statute and pass/fail criteria already referred to, as well as the Election Law, the bylaws of political parties, and the laws and regulations of the different trade unions, all require legal capacity according to the narrow definition contained in the Civil Law and Personal Status Law. They also require the absence of disabilities, and in case of a disability, a medical report is required to demonstrate that the disability does not prevent the person from performing work tasks and serving as a member of a party or union.

It should be noted that the most critical impact on the exercise of political rights was related to the adoption of Jordan's Constitution of a discriminatory restrictive approach which prohibits persons with psychosocial disabilities from exercising the right to run for office, according to Article (75) of the amended Constitution (40) . The Elections Law No. 9 /2010 confirmed this trend with conclusive language as to the exclusion of persons with psychosocial and persons with intellectual disabilities from the right to vote and run as candidates, according to Articles (3) and (8) of the Law (41). Indeed, Article (3) used harsh and direct language that is uncommon in legislative terms, except in specific and exclusive cases where disability should not be one of them, stipulating a list of individuals that "shall be deprived of the right to vote ...", included among them are persons with psychosocial disabilities, or what is termed in law as "confined" or "insane", in a generalization that has no real justification or legitimacy.

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39- Notary Law No. 74 / 1951 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1951&no=74](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1951&no=74)

40- Jordanian Constitution [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

41- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2010&no=9](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2010&no=9)



# 5

## Real Life Examples of Different Forms of Discrimination and Violation of Rights

The report identified many discriminatory practices as enumerated below:

1. In the area of the right to body integrity, it is noted that hysterectomy for girls with intellectual and psychosocial disabilities has become a real concern to human rights and Persons with Disabilities activists. These practices are a serious phenomenon that Persons with Disabilities, DPOs and other relevant authorities need to address and combat, as a crime committed under medical guise, justified by those who commit it as medically needed, with reports often justifying carrying out such operations for bleeding, fibroids or other reasons, the validity and credibility of which cannot be argued by non-medical specialists.

Nonetheless, the report team obtained some medical reports written to justify one of these procedures and found passages that related to the interests of the family and the alleviation of its "suffering" with regard to the girl that underwent the procedure. This shows the extent to which medical authorities intrude, and do not limit their authority to only prepare reports that determine whether a person with a disability is "fit" to exercise a right or freedom, based on medical committees' reports, but exceed this discriminatory limit with some designating themselves as social workers, judges and executors at the same time. They are able to commit the crime of removing a bodily organ for "social" reasons, covered up by medical reasons so the perpetrator is free from criminal responsibility.

An official at Al-Bashir Public Hospital told a daily newspaper earlier <sup>(42)</sup> that the total number of hysterectomies conducted for girls with disabilities was three to four operations per year in that hospital alone. The official found nothing wrong with affirming his support for such operations, a position that was also conveyed by a colleague of his at Jordan University Hospital in a similar statement declaring that these procedures are "merciful towards the girl and her family".

A disturbing statement issued recently by

42- <http://www.alghad.com/index.php/article/311922.html>

43- <http://alrai.com/article/11834.html>



the Higher Council reveals that 64 hysterectomies are carried out every year on women with intellectual disabilities in Jordan (43). There is no doubt that these figures point to a systematic crime perpetrated openly on the basis of disability, which places the principle of rule of law and respect for human rights at stake, at a time when Jordan is trying to confirm its commitment to international conventions, strengthen the principles of human rights, and move forward in the process of social, legislative and political reform.

In one case study carried out by the report team on this issue, a family that performed a hysterectomy for a 17-year-old girl went on to conduct the same procedure on the girl's sister a year later when she reached 17 years of age, since both girls have an intellectual disability. The girls' mother said she was totally convinced of the benefits and need to conduct these procedures, under the pretext that the girls had irregular menstrual cycles. The woman said the doctor who performed the operation requested that she first consults the Department of Ifta" (religious opinion), which the mother did not manage to do. The doctor went ahead and performed the procedures nonetheless (44).

In fact, the report team's own research including case studies and interviews as well as an analysis of the efforts made by the Higher Council through its Women's Committee indicates that the underlying cause for families going through with this practice is the fear that girls will be sexually assaulted and will then get pregnant, resulting in the family being stigmatized once the pregnancy shows. This would negatively impact the families' social status and standing, something that those who commit these crimes said they could not bear.

Although the Penal Code and Law No. 31/2007 do not include special provisions for this crime, the provisions of the Penal Code are clear in stating that such an act constitutes a crime that necessitates accountability and punishment for the perpetrator, since it touches on the sanctity of the body and involves the removal of an organ without justified medical reason, as stipulated in Article (335) of the Code (for more information, Article (17): Protection of Personal Integrity in the report).

2. In the field of detention and restriction of freedom on the basis of disability, national legislation gives wide powers to the Minister of Health and the judiciary in executing forced institutionalization against persons with psychosocial and intellectual disabilities, as stipulated in the articles of the Public Health Law (45). and the Law of Criminal Trials. (46).

Field visits conducted by the report team to the National Center for Mental Health, as well as reports by some involved in the consultative meetings, interviews conducted by the team with some activists and those interested in issues and rights of persons with psychosocial disabilities, indicated that there are cases of detention extending over twenty years in unacceptable conditions (47). Daily newspapers had published suicide incidents of two residents at the National Center for Mental Health in the city of Fuheis, one of whom had been at the Center for 20 years, from 1991 till 2011 (48). There is a real need to thoroughly review the legislative frameworks that govern this

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44- Case study on hysterectomies of girls with intellectual disabilities, (Inas> story) 6/9/2010

45- Public Health Law, No. 47/ 2008 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2008](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2008)

46- Law of Criminal Trials, No. 9 / 1961 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=9&year=1961](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=9&year=1961)

47- Interview with Dr. Zuhair Zakaria, former president of the Jordanian Society for Psychology 23/1/2011 <http://www.alghad.com/index.php/article/480006.html>

48- <http://www.alghad.com/index.php/article/480006.html> [http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2010%5C10%5CLocalAndGover\\_issue1107\\_day23\\_id275565.htm](http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2010%5C10%5CLocalAndGover_issue1107_day23_id275565.htm)

# 5

## Real Life Examples of Different Forms of Discrimination and Violation of Rights

matter and the conditions of such centers.

Officials at the National Center for Mental Health said they are confronted with a real problem with some families that refuse to receive persons with psychosocial disabilities who complete their treatment phase within the center. Some families prefer to keep these people away as if the National Center for Mental Health is a care facility or welfare shelter, which burdens the management and staff, and deprives others the opportunity to take advantage of the treatment and services provided by the Center (49).

That said, a very positive step was taken by the Ministry of Health in collaboration with the World Health Organization (WHO) in the direction of correcting the path of "mental health" on the basis of participation and human rights principles, where a policy on national mental health was adopted (50), with persons with psychosocial disabilities playing a significant role in preparing and publishing it.

The report team reached out to activists with psychosocial disabilities to ensure their participation in the process of preparing and publishing this report, which was secured when members of the Khotwetna Society for Persons with Psychosocial Disabilities joined the Coalition and participated in the various training sessions, meetings, and interviews, which took place on the sidelines of the preparation of the report and its adoption.

3. In the area of exposure to violence and cruel treatment, the report monitored several cases where Persons with Disabilities faced attacks and physical and psychological abuse on the basis of disability. On more than one occasion, dailies published very harsh incidents and practices during which Persons with Disabilities, especially children, were exposed to various types of violence and abuse - and in some cases death

49- Interview with Dr. Mohammad Asfour and Dr. Nael Udwan, Administration of the National Center for Mental Health, Ministry of Health, Amman-Jordan, 16 /1/2011

50- National Policy for Mental Health, published by the National Committee for Mental Health, January 2011

51- [http://db.alarabalyawm.net/pages.php?news\\_id=287089](http://db.alarabalyawm.net/pages.php?news_id=287089)

52- <http://alghad.com/index.php/article/500747.html>

- as was the case with one girl with intellectual disabilities who was bound and detained in an animal barn for several years, with members of her family taking turns to torture and beat her, in addition to burning parts of her body, leading to her death at the age of 19 (51). Cases of beatings and abuse of children in some care-giving institutions and special education centers were also noted (52).

It appears that the practice of restricting and detaining persons with intellectual and psychosocial disabilities inside homes is more common in remote areas, which suffer from poverty and scarcity of services, in addition to low levels of education and knowledge, as is the case in the area of Dleil (53).

4. In the area of environmental accessibility and mobility, the report monitored through different consultative meetings and interviews, a situation of lack of equal opportunities and the violation of privacy and individual autonomy, due to the absence of different forms of accessibility. While presenting their personal experiences during different consultative meetings, stakeholders pointed out the difficulty, and sometimes the impossibility of accessing various facilities in education, health and different public services (54).

An extensive participatory study carried out by the North-South Center for Dialogue was commissioned by the Higher Council on this issue (55), showing the vulnerability of environmental accessibility, and its absence in many remote areas, especially in the areas of education and health. Case studies and interviews carried out by the Community Media Network in a field investigation, entitled "Prisoners in Their Wheelchairs" (56), showed the extent of discrimination and exclusion faced by Persons with Disabilities because of the absence of material environmental accessibility in facilities and means of transport, as many of them could not enroll in schools or certain specialized training courses in different fields, due to lack of environmental accessibility and the existence of discriminatory attitudinal barriers on the part of taxi drivers.

5. With regard to education, focus groups conducted by the report team with a group of deaf students and their families, and a group of teachers and sign language interpreters (57) show the exclusion faced by deaf students at the elementary stage of education. Many of them do not know sign language, or read and write, yet they attend public schools where most teachers are not qualified in sign language, leading to their isolation and their lack of academic achievement. They are later, automatically promoted from one stage to another, according to the pass/fail criteria mentioned above. Therefore, most finish elementary education without the slightest benefit.

On the other hand, some deaf students studying at Al-Amal and Al-Raja' schools and other schools for persons with hearing impairments, are able to pass the General Secondary Certificate (Tawjihi) exam, and some later attend universities to study specific disciplines limited to Special Education, Sports Education or Computer. That said, these students also do not know how to

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53- Interview with Fatima Dahamsheh, president of Dleil Women's Society, August 28, 2011

54- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22 until July 16, 2011.

55- Obstacles and barriers to the participation of Persons with Disabilities and their integration in society, a field study in the environment of Jordan, and the North-South Centre for Dialogue and Development 2011 (not yet published)

56- Investigative report "Prisoners in Their Wheelchairs", Documentaries on Human Rights, Community Media Network; <http://ar.ammannet.net/documentary/?p=48&page=1>

57- Results of focus groups conducted by the report team with a group of deaf students in the stages of elementary education and with a group of parents, teachers and sign language interpreters in the centers and institutions of special education in the various governorates August 24-25, 2010

# 5

## Real Life Examples of Different Forms of Discrimination and Violation of Rights

read and write, and are totally dependent on sign language interpretation, with most of them being unsatisfied with its quantity and quality (58).

The situation does not appear to be better for persons with intellectual disabilities who are confronted with a real problem exercising their right to education. Though the Ministry of Education has established special rooms in some schools called "resource rooms", where students with learning difficulties are taught mathematics and Arabic language, these rooms are ineffective as many have been converted to general classrooms, or storage areas, or are used for other purposes (59).

In fact, there is clear confusion between inclusion and integration in the field of education in Jordan. While the former represents the ultimate goal of education programs where students with disabilities are fully integrated into schools with their colleagues, the latter (integration) is a stage where special measures are taken, such as resource rooms, as a step towards achieving the proper sense of inclusion. This difference does not seem to be clear in the plans, programs and policies - if any - adopted by the various parties active in the field of education (for more information, Article (24): Education in the report).

It appears that people with moderate and severe intellectual disabilities face additional challenges, such as those who attend Al-Manar Centers of the Ministry of Social Development which rely on curricula that is not compatible with the general curriculum of the same grade level, and focuses on basic life skills, without any attempt to achieve inclusion or even integration in an effective manner.

As for persons with autism, or what some special education workers call "autism disturbance or autism spectrum", they confront great obstacles that prevent most of them from enrolling in

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58- consultative meetings in the different Governorates of the Kingdom, to discuss the draft report June 16 to July 22, 2011 in Amman. Meeting with 250 activists, representatives of DPOs and service providers, on the sidelines of a visit of Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010.

59- Consultative meetings in the different Governorates of the Kingdom, to discuss the draft report, June 16 to July 22, 2011 in Amman

educational institutions. This is mainly due to the lack of effective and specialized public centers in this area, and the high cost of attending private centers that have experience in dealing with this kind of intellectual disability (60).

6. In the field of health, the absence of environmental accessibility and reasonable accommodation is an obstacle that prevents Persons with Disabilities from accessing health facilities and benefiting from their services on the basis of equality and equal opportunities. In one case study carried out by the team with a deaf person, the latter had gone to a public hospital for an emergency and it proved impossible for him to communicate with the medical staff there. Doctors examined him randomly, assessed the reason for which he was there, and prescribed certain medication that turned out to be unrelated to the issue that the person needed to address (61).

In cases of emergency and rescue, the interview conducted by the report team with the Directorate of Civil Defense revealed that ambulance crews deal with a deaf person as an unconscious person in the event it becomes impossible to communicate with him (62). There are individual efforts by some organizations in cooperation with the Directorate of Civil Defense that serve to train emergency and rescue teams on sign language. While these efforts and initiatives are recognized as positive, they remain within the framework of the non-systematic activities which should instead fall within clear plans adopted by the authorities and bodies responsible for emergency and rescue services.

The absence of reasonable accommodation poses an obstacle for persons with visual disabilities' access to information on medicines and treatment methods, which adversely affects their right to make appropriate decisions, and to grant free and informed consent to medical practices and treatments carried out on them (for more information, Article (17): Protection of Personal Integrity, and Article (25): Health in the report).

The contracts for some private health insurance are a glaring example of the consecration of discrimination on the basis of disability, where some refuse to cover everything related to disability prior to the contract, and impose a higher premium for Persons with Disabilities. In addition, these companies expressly exclude in contracts everything related to neurological diseases and disabilities, including epilepsy and psychosocial disabilities (for more information, Article (25): Health in the report).

7. In the area of work, the text of Law No. 31/2007 in Article (4), paragraph (c) clause (3) introduced a special measure to ensure minimum access for Persons with Disabilities to work opportunities and employment, by setting a 4% quota for employing Persons with Disabilities in the public and private sectors, provided that the number of employees in the facility or institution or department exceeds 50. If the number of employees is between 25 and 50, the quota is then reduced to employing one Person with a Disability.

It is however noted that the text of this paragraph establishes a condition that would hinder the implementation and application of this special measure (quota), as it includes the phrase "provided that the nature of the work allows for it", which gives the employer unlimited and arbitrary power in many cases to refuse to hire Persons with Disabilities, under the pretext of the inadequate nature of the

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60- Interview with Suha Tabbal, expert in the field of special education and rehabilitation programs for persons with intellectual disabilities, September 16, 2011

61- Case study of Mohamed Ardah, from the outputs of the consultative meeting in the Central Region, the cities of Amman and Madaba, to discuss the draft report on July 16, 2011 in Amman

62- Interview with Colonel Samer Majali, director of Emergency Services, Civil Defense Directorate, January 12, 2011

work. This is made easier with the absence of mechanisms for the removal of physical barriers and attitudinal constraints and the lack of reasonable accommodation in the work environment. (For more information, Articles (1-4): Purpose, Definitions, Principles and General Obligations, and Article (27): Work and Employment in the report).

The Medical Committees Statute referred to above and the requirement of "physical fitness", the absence of reasonable accommodation, and the entrenchment of attitudinal barriers, are all factors that prevent Persons with Disabilities from fully enjoying the right to work on an equal basis with others. The report found there is disguised unemployment among Persons with Disabilities, resulting from employers' stereotypes and negative behavior, as experiences and case studies presented by some participants in the consultative meetings who noted the failure of employers to assign actual tasks to them, due to a deeply-rooted negative belief that Persons with Disabilities "are unable" to work in the first place (63).

On another note, Persons with Disabilities' access to soft loans and micro-financing is almost non-existent as the number of Persons with Disabilities that benefited from funding programs under the Development and Employment Fund did not exceed 20 people over 20 years. The total number of beneficiaries for these programs reached 1,419 in 2009 alone (64), according to the report issued by the Labor Watch project of the Phoenix Studies Center (65).

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63- Consultative meetings in the different Governorates of the Kingdom, to discuss the draft report June 16 to July 22, 2011 in Amman

64- Report, "Indicators of Achievements for the First Quarter 2009", Development and Employment Fund [http://www.def.gov.jo/RichTextBoxFiles/File/enjaz\\_4\\_2009.pdf](http://www.def.gov.jo/RichTextBoxFiles/File/enjaz_4_2009.pdf)

65- Report of the Observatory of Jordanian Labor, Employment of the Disabled in Jordan - Big Ambitions, Difficult Reality, December, 2009 [http://www.labor-watch.net/files/2011/Employment\\_for\\_Disabled\\_People\\_in\\_Jordan.pdf](http://www.labor-watch.net/files/2011/Employment_for_Disabled_People_in_Jordan.pdf)



# 6

## The Overlapping Roles and Responsibilities and Weak Participation of Persons with Disabilities in Decision-Making Processes and Monitoring

The existence of multiple executive bodies with overlapping jurisdictions and powers, and poor coordination among them in the field of disability in Jordan, is one of the biggest obstacles to moving forward in the activation of the provisions and principles of CRPD at the national level, and strengthening the rule of law through the implementation of the provisions of Law No. 31/2007.

The Ministry of Social Development has historically held the “mandate” for managing the issues of Persons with Disabilities and DPOs, according to the provisions of the Ministry Law No. 14/1956<sup>(66)</sup>, which realize the charitable approach to the fullest. The Ministry continues to carry out its various functions today in the management of the affairs of Persons with Disabilities, according to this Law, from giving direct aid, to providing rehabilitation services, to supervising some aspects of education for specific categories of Persons with Disabilities. The Ministry is also in charge of licensing institutions, associations and centers working in the field of disability and DPOs (for more information, Article (24): Education and Article (33): Implementation and Monitoring at the National Level in this report).

As for the Higher Council, its establishment initially came as a result of the need to fulfill CRPD’s requirement to develop a national coordinating mechanism that promotes and monitors the implementation of CRPD’s provisions at the national level. Article (7) of Law No. 31/2007 defines the Higher Council’s functions, stipulating in its first paragraph that “The Council shall assume the following tasks and powers: (a) Drawing up special policies for Persons with Disabilities, and reviewing and monitoring their implementation in coordination with the relevant authorities, in order to unite all efforts to improve the lifestyle and living conditions of Persons with Disabilities and facilitate their inclusion in society (67).”

Regardless of the welfare and service-oriented tone that can be discerned from this paragraph, the provision clearly sets the foundation for the Higher Council’s work. It is described as the primary body responsible for the formulation of policies on the rights of Persons with Disabilities and their issues, and is entrusted with following up on their implementation through coordination mechanisms that guarantee the commitment of each of the executive bodies to the application of the terms of policies and strategies laid down by the Higher Council.

It is worth mentioning that the application of the

66- Ministry of Social Development Law No. 14/1956 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=14&year=1956](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=14&year=1956)

67- Law No. 31/ 2007 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

provisions of international treaties and conventions on the rights of Persons with Disabilities is one of the functions which must be undertaken by the Higher Council, as confirmed by paragraph (f) of Article (7) of Law No. 31/2007, which stipulates that one of the Higher Council's duties is "to participate in efforts to achieve the objectives of international conventions and agreements relating to the affairs of disabled persons, which were ratified by the Kingdom". This text conclusively demonstrates the Higher Council's legal obligation to promote the application of CRPD's provisions as the main international document on the rights of Persons with Disabilities.

If the text of Article (7) of the Law No. 31/2007 ended at paragraphs (a) and (f) referred to above in the role of the Higher Council and its functions, the role and tasks would have constituted a model for the strict application of the provisions of Article (33) of CRPD. However, paragraph (b) of Article (7) weakened promoting rights and entrenching the culture of human diversity, by stating that one of the Higher Council's function is to also "participate with the relevant authorities in the development of a comprehensive national plan to raise awareness and prevention, in an effort to reduce the occurrence and extent of disabilities, and work to halt its escalation".

The promotion of the rights of Persons with Disabilities and achieving equal opportunities are not related to reducing disability and preventing it. This latter goal falls under the jurisdiction of the Ministry of Health and is not the responsibility of the authority entrusted with policy-making aimed at including disability issues in the public domain, and eliminating long-held stereotypes and discriminatory exclusionary practices.

A review of this report's various findings reveals a plurality of actors in the field of disability and a level of complexity and overlap in their roles, which produces, no doubt, some vagueness and ambiguity with regard to the scope of responsibilities for each, and limits specialization. This in turn makes the process of implementing policies, legislation and CRPD both complex and generalized at the same time. Additionally, it is difficult for DPOs, activists and CSOs to administer accountability and organize advocacy campaigns since they are often unable to determine the real authority that is responsible for a particular area or sector, as reported by those involved in the various consultative meetings (68).

What some organizations and individuals are doing as well as media coverage about individual cases and specific demands (69) related to employment, health or education, confirm an unclear vision of responsibilities and specializations among the various executive bodies, including the Higher Council, the Ministry of Social Development, the Ministry of Education, the Ministry of Health, the Ministry of Labor, the Civil Service Bureau and others.

Certain experiences presented at the consultative meetings with regard to the violation of the right to work for example, show that some people look to the Higher Council as the authority with the general mandate and the umbrella organization for issues of Persons with Disabilities and that it is the exclusive authority for bodies and other ministries of jurisdiction. This view is even entrenched in some executive bodies, which always redirect to the Higher Council those Persons with Disabilities that reach out to them to demand a particular right or service.

Interviews conducted by the report team with some of these bodies showed that there is a near total reliance on assumed powers for the Higher Council that are not necessarily accurate or consistent with the law and the provisions of national strategies. This leads some of these actors to refrain from providing services to Persons with Disabilities, except through the issuance of letters of recommendation and endorsement traditionally granted to them through their organizations, during the era of the repealed Law No. 12/1993 and earlier. Today, granting such letters is done through the Higher Council.

There are several factors that play a key role in perpetuating such a strict territorial view in dealing with the issues of Persons with Disabilities and their rights. On the one hand, it appears that the Higher Council,

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68- Consultative meetings in the different Governorates of the Kingdom, to discuss the draft report June 16 to July 22, 2011-Amman

69- <http://www.alghad.com/index.php/article/417409.html>



# 6

## The Overlapping Roles and Responsibilities and Weak Participation of Persons with Disabilities in Decision-Making Processes and Monitoring

while fully aware of its leading role in setting up policies and being responsible for follow-up on implementation in coordination with executive bodies, as required by provisions of Law No. 31/2007 and embodied in the National Strategy- Phase II (70), it still often appears as an executive body that provides direct services to individuals and organizations, without a clear, firm, and declared plan or strategy. This can be well-deduced from the activities and initiatives undertaken by the Higher Council on a number of occasions (71) (for more information, Article (33): Implementation and Monitoring at the National Level in the report).

On the other hand, the reverting of Persons with Disabilities and DPOs to the traditional style of claiming their rights and facilitating their transactions based on immediate individual needs, through unofficial communication channels, and in the absence of organized advocacy movements with a legal basis, will inevitably lead to limiting specialization to one authority. In addition, it will relieve other entities of responsibilities imposed by basic legal provisions and the terms of the National Strategy, to the extent that these entities overlook even a mention of Persons with Disabilities in strategies and annual plans, as described in this report.

On another level, the absence of executive regulations to activate the provisions of Law No. 31/2007 and other legislative texts, which deal with the rights and issues of Persons with Disabilities, has jeopardized the rule of law in this area. It has also reinforced the practice of sensationalizing the issue and using charity as the fastest way to access services and exercise rights - which can be deduced - as shown in other Articles of the report, from the way demands are presented and how they are generally addressed (for more information, Articles (1-4): Purpose, Definitions, Principles and General Obligations, and Article (33): Implementation and Monitoring at the National Level in the report).

Finally, the weakness of monitoring and accountability mechanisms and the lack of participatory and effective follow-up could dilute and weaken the value of legal texts, and override them with interpretations and individual efforts in achieving the minimum exercising of rights and access to related services.

As to monitoring and implementation follow-up, it should be noted that in recent years, NCHR has consistently addressed the issues of Persons with Disabilities in its annual reports issued by the end of each year on the Situation of Human Rights in Jordan(72).

70- National Strategy - Phase II p. 7 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

71- <http://hcd.gov.jo/ARCHMAIN4.ht>

72- NCHR reports on the Situation of Human Rights in Jordan  
<http://www.nchr.org.jo/arabic/>

One reservation about these reports, however, is that they mainly describe the types of services offered and the institutions that exist, with less room for tackling the reality of discriminatory practices and violations of the rights of Persons with Disabilities.

With regard to the level of participation of Persons with Disabilities in the implementation and monitoring of CRPD or national law, there is an urgent need to broaden participation and deepen the quality. Law No. 31/2007 allocates seven seats for Representatives with Disabilities and families on the board of the Higher Council, who are appointed without any clear adopted criteria for their selection. In addition, many are absent from this process, particularly persons with psychosocial and intellectual disabilities (for more information, Articles (1-4): Purpose, Definitions, Principles and General Obligations in the report).

The consultative meetings and other discussion meetings and forums organized by the report team during the process of preparing the report and presenting its draft to Persons with Disabilities and DPOs, reflected dissatisfaction with the level of participation of Persons with Disabilities in the process of monitoring CRPD and national legislation. Many activists and organizations expressed that they did not have a role in this regard, and that no Person with Disability nor any representative organization were invited to participate in the consultative process for the preparation of official reports related to human rights conventions ratified by Jordan, and reported on more than once.

There was also no participation by Persons with Disabilities and DPOs in the preparation of shadow reports issued by CSOs on the State's commitment to human rights conventions, including reports on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, the Convention against Torture and others. This shows the lack of proper inclusion by governmental and semi-official entities as well as civil society organizations for the rights, issues and participation of Persons with Disabilities in their activities and programs.

In this regard, it should be noted that the shadow report for CEDAW, set to be submitted by CSOs in February 2012, will for the first time see the participation of Persons with Disabilities. It is expected that the delegation representing CSOs formed by the Jordanian Women's Union will include a woman representative from Persons with Disabilities in this important and critical event.

It should be noted that the "parallel" report on the State's application of CRPD, issued by NCHR in April 2011, lacks the active and wide participation of Persons with Disabilities, as reported by stakeholders in the consultative meetings. Concerning the official report for CRPD, Persons with Disabilities and DPOs are not supposed to play a leading role in its preparation and presentation, though the State should consult with them about the content and credibility of the report, as required by the provisions of Articles (4) and (33) of CRPD. Such consultation had not taken place up until the time of the publication of this report and its Executive Summary.

The ongoing reluctance of the State to ratify the Optional Protocol to CRPD is a matter worthy of mobilizing efforts, and organizing advocacy campaigns and lobbying on the part of Persons with Disabilities and DPOs and human rights organizations, to push for change in that position, which does not reflect the public attitudes expressed by the State in support of human rights and freedoms and the imposition of solid legal protection for Persons with Disabilities. Failure to ratify the Optional Protocol to CRPD limits the scope of legal protection for the rights of Persons with Disabilities as it deprives them of utilizing one of the effective international mechanisms in the defense of their rights, in the event they are unable to achieve this through national mechanisms that are still in the process of formation and development.

# 7

## General Recommendations

It is worth noting that each article in the report includes two detailed categories of recommendations: one related to the analysis of policy and legislation for the topic at hand, and another addressing the real practices identified through the experiences and stories of those concerned, as well as various interviews with executive bodies, investigative news reports, and findings from focus groups and case studies, as outlined in the section on report methodology. This serves to suggest legislative solutions at the policy, planning and program levels, as well as to change attitudes and remove environmental barriers, and to end discriminatory and marginalization practices in the field of disability. Overall, the most important general recommendations are outlined below:

1. Adopt an inclusive definition of the issue of disability, as the overlap between personal factors and environmental and attitudinal barriers, limiting the exercise of rights and freedoms and active participation in all walks of life. This definition should be assimilated in national legislation, policies and strategies as the basis for identifying target audiences in programs and executive plans and means for applying related legal texts;
2. Review the system of national legislation, policies and strategies and including the rights of Persons with Disabilities, in light of CRPD principles, and achieve the paradigm shift from the medical welfare approach to one based on the principles of human rights;
3. Abolish legislative texts that perpetuate forms of discrimination on the basis of disability, and entrench stereotypes about Persons with Disabilities;
4. Issue regulations and instructions necessary for the application of legislation on the rights of Persons with Disabilities;

5. Create a participatory mechanism for effective monitoring and follow-up on the implementation of national laws in line with CRPD principles and detailed provisions, and strengthen the role of Persons with Disabilities and DPOs in this mechanism, as stipulated in Articles (4) and (33) in CRPD, along with a clear statement of the responsibilities and roles of the various executive bodies. Also, hasten the ratification of the Optional Protocol to CRPD and its publication in the Official Gazette;

6. Establish a mechanism to monitor discriminatory practices and violations committed on the basis of disability, documenting them and working to combat and eliminate them, in consultation and partnership with Persons with Disabilities and DPOs; and

7. Develop the capacity of DPOs to play a leadership role in demanding rights, reasonable accommodation and accessibility of various forms in all sectors, and enhance participation in decision-making processes and policy formulation and implementation follow-up.

## **“Mirror of Reality and a Tool for Change”**

**The full version of:**

**The Civil Society Report on the Status  
of Implementation of the Convention on the Rights  
of Persons with Disabilities in Jordan**

**January 2012**

**[www.crpjordan.org](http://www.crpjordan.org)**

## **Articles (1-4):**

# **Purpose, Definitions, General Principles and General Obligations**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Whereas the medical welfare approach forms the cornerstone of policy and legislation relating to Persons with Disabilities in Jordan as outlined in the introduction of this report, Law No. 31/2007 did not introduce anything new in this regard, despite the fact that it was issued in response to the changes that accompanied the process of drafting and ratifying the Convention on the Rights of Persons with Disabilities (CRPD).

Article (2) of this Law reinforced the Jordanian legislator's approach of adopting the medical model based on individual perception of disability as a medical condition, regardless of the environmental and attitudinal obstacles that play a key role in marginalizing Persons with Disabilities, and discriminating against them when it comes to their exercising their rights and fundamental freedoms.

In applying the provisions of Law No. 31/2007, Article (2) defines the Person with a Disability as "every person with partial or full deficiency in any of the senses or physical, psychosocial or mental and abilities, to the extent that limits the possibility of learning, rehabilitation or work, which disables meeting the requirements of normal life, in conditions pertaining to others without disabilities" (73). This same terminology had been used in the repealed Law No. 12/1993 on Welfare and Rehabilitation of the "Disabled" (74).

This definition clearly refers to the "capacity" of the individual in the exercise of certain fundamental rights (work, rehabilitation and education), compared to the circumstances of "others with no disability". In its current form, this course of thought, which reflects a subjective approach in identifying Persons with Disabilities, is both weak and lacking in discipline. As a result, it adds more uncertainty and confusion to the interpretation and application of legal provisions.

What are the standards and guidelines regarding "limited capacity" for education, work, or habilitation? And what entity is tasked with determining that? If medical reports are to be used as the basis for determining capacity, then we are again faced with situations whereby medical diagnosis gives doctors and their tools and assessments much leeway in this area, without an entity with determined guidelines and standards to monitor the doctors and hold them accountable with regard to judging a person's capacity to exercise a right or freedom.

Moreover, what is meant by "requirements of normal life" and how these requirements are identified? When are they normal and in comparison to what standard or assessment? In addition, what is the basis of comparison vis-à-vis the «conditions of persons without disabilities»? And should we look for a similar example with the same circumstances? Furthermore, are people's circumstances similar, whether they are with or without disabilities? What is the nature of these circumstances? Are the circumstances of a student who does not have a disability, for example, and who enjoys printed, legible curricula and schools with facilities, as well as accessible streets and means of transportation similar to the circumstances of another student of the same age and economic status and from the same geographical area, but who cannot go to school due to lack of accessible transportation, or the absence of a curriculum in an accessible format, in addition to social attitudinal constraints that hinder their day-to-day activities? Are they equal in theory and in practice?

There is no doubt that by adopting the medical and subjective approach, the legislator fails to consider the role played by the physical and attitudinal environment with its different constraints and barriers. Instead, they are solely focused on the physical aspect and the "deficiency" or "weakness" of the senses in the exact medical sense.

It is interesting to note that in determining status of disability or when identifying a Person with a Disability in the system of legislation and policies in Jordan, there is an apparent inconsistency between Law No. 31/2007 and articles stipulated in the National Strategy - Phase I, in addition to what was adopted in its Phase II as to the definition or description of disability and the Person with a Disability.

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73- [Http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

74- [Http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1993&no=12](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1993&no=12)



The National Strategy in Phase I adopted a more comprehensive definition, containing elements which point to the beginning of a thorough understanding of a paradigm shift from the medical, welfare model to the one based on the principles of human rights and general principles of the CRPD. We thus note in the Definitions Chapter of the strategy: "Disability: limit from undertaking daily life activities or exercise of a right or fundamental freedoms on an equal basis with others, as a result of the intersection of environmental, social or attitudinal constraints with what affects the body of apparent defect in the functional physical, psychosocial or intellectual activity" (75).

The National Strategy in Phase II then emerged to communicate in a clear and explicit form the definition of a Person with a Disability, as noted by CRPD, and as reported in the document in its special clause on defining this target group (76).

In light of this fundamental contradiction in defining those addressed by the provisions of the law, and the target group for policies and strategies associated with it, the question arises about the validity of each of these different definitions and scopes of enforcement. On the one hand, some believe that the definition adopted must be the one covered in Law No. 31/2007 as a binding and enforceable document which is superior to policies and strategies. Others view that the definitions contained in the strategies are better, due to the fact that the latter is a national framework that guides legislation, including Law No. 31/2007. A third group believes that these different definitions can all be adopted in their respective areas and context.

Regardless of these various points of view, in reality, executive bodies have a general tendency to adopt what is stipulated by law as a general, clearer reference, especially given that these bodies, who are not specialized in the field of disability, do not follow up on the implementation of the National Strategy as well as plans and programs stemming from it. This was reported by the executive bodies themselves in direct interviews with the report team (77). There is no doubt that these bodies' adoption of a narrow medical definition will have an exclusionary impact on many individuals and groups who do not fall under the definition cited by the Law, per the aforementioned details.

Along the same lines, the definition in Law No. 31/2007 limited the cases of disability to specific bodily senses (physical, intellectual, psychosocial). The Law then required that the deficiency to these senses be constant, i.e. not temporary or only lasting for an extended period of time. This again provides a narrow scope for protection that does not include those who have an invisible disability or a disability in an organ that was not mentioned. In this regard, persons with invisible disabilities or with disabilities limited to a specific period of time are not covered by the provisions of the Law.

In light of this contrast and disharmony between the Law, the National Strategy and other disability-specific legal definitions such as those in the Social Security Law No. 7/2010 (78) and the Medical Commission Regulations No. 58/1977 (79), questions remain about the scope and validity of each of these definitions, and about how to harmonize these to correct what actual practices reflect, which is that the Person with a Disability is in one case covered by the provisions of a certain legal text, eligible for a particular service in another, and not included in another provision or ineligible to benefit from programs or services in other cases.

As to the extent of adoption of the system of Jordan's national legislation of some of the concepts contained in the CRPD, specifically of reasonable accommodation, there is no doubt that Law No. 31/2007 provided for a step forward in this area both at the national and regional levels, when it outlined in

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75- <http://hcd.gov.jo/index.htm>

76- National Strategy, Phase II, <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

77- Interview with Ikhlas Aranki, Assistant Director, Department of Statistics, September 28, 2010. Interview with Dr. Zakaria Omari, Director of the Directorate of Women and Children, Dr. Munther Ammari, head of Department of Center of Early Diagnosis of Disabilities, Dr. Haitham Saudi, Department of Disabilities, Ministry of Health, October 11, 2010. Interview with Mr. Mohammad Miqdadi, Program Manager, National Council for Family Affairs, January 20, 2011

78- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=7&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=2010)

79- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?year=1977&no=58](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?year=1977&no=58)

Article (2) on definitions a comprehensive definition for reasonable accommodation which was referred to in the Law as "reasonable facilities."

The Article defines "reasonable facilities" as: "the equipment needed to harmonize environmental conditions in location and time and the provision of equipment, tools and aids, where necessary, to ensure the exercise of the rights of Persons with Disabilities on an equal basis with others, in a way that does not entail serious harm to the concerned entity".

However, this legislative achievement was not supplemented with implementation mechanisms to ensure its realization and its effective and accurate application. Up until the launch of this report, relevant authorities had not yet issued any instructions or guidance on how to include reasonable accommodation in strategies, plans and programs of the various executive agencies, as shown in Articles (24), (25), (26), (27) and others of this report.

Moreover, there is no recorded judicial precedent to date that refers to the judiciary's role, for example, in balancing between providing reasonable accommodation and ensuing burdens or disproportionate difficulties. The reason for this may lie in the service-oriented welfare approach, which is based on providing direct services to Persons with Disabilities, on the basis of immediate apparent need, which can be clearly seen by monitoring what some individual service agencies and stakeholders undertake in policy development and follow up <sup>(80)</sup>, often causing significant confusion about the nature of its mission and identity <sup>(81)</sup> as described in Article 33 of this report.

As to the inclusion of the CRPD's general principles and obligations in national legislation, Law No. 31/2007 once again recorded a milestone in legislation, providing a special article on general principles and guidelines that underlie the detailed provisions of the Law. This article included the same general principles outlined in CRPD, and added certain other principles like environmental accessibility, scientific research and data collection <sup>(82)</sup>. While this text is indeed superior to other national provisions, it is noted that these principles were not dealt with seriously enough to reflect their added value in comparison to all other legislation, including the detailed provisions of Law No. 31/2007 itself.

A careful reading of the Law shows that there are provisions in the various articles that are clearly inconsistent with the many principles contained in Article (3). For example, Article (4), paragraph (d) on social protection speaks to providing «institutional day-care or shelters for Persons with Disabilities who need it.» It is clear that this text runs contrary to the principles of inclusion and respect for freedom and individual autonomy, equality and equal opportunities, and acceptance of disability as part of human diversity and humanity, in accordance with the provisions of Article (3) of the Law itself.

Also, according to paragraph (a) of Article (4) on health one note items (1) and (2) on the commitment of competent authorities to provide: «1. Preventive programs and health education including surveys for early detection of disabilities; 2. Diagnosis and classification of scientific and medical reports issued to persons with disabilities.» By introducing these two items, the legislator contradicted the general principles and foundations that he had laid out in the Law, by referring to prevention in legislation that aims to perpetuate a culture of diversity and promote acceptance of others, which is clearly contrary to the principle of acceptance of disability as part of human diversity and humanity.

The text also refers to the issuance of medical reports for Persons with Disabilities as one of the major services, which stresses the medical welfare model in the exercise of the rights and freedoms, constituting a flagrant conflict with the principles of equality and equal opportunities and non-discrimination. If this is the case with Law No. 31/2007, the leading national legislation in adopting CRPD's general principles, one would not be surprised by the legislator's approach in other legislation. In fact, the Jordanian legislative system is full of discriminatory provisions against Persons with Disabilities in text and practice, as detailed in Article (5) and Articles (12), (14), (15), (16) and others in this report.

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80- <http://www.hcd.gov.jo/arch66.htm>. <http://hcd.gov.jo/arch5.htm>. <http://hcd.gov.jo/arch5.htm> . <http://hcd.gov.jo/arch130.htm>

81- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

82- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

With regard to the collection of information and data on the measures and criteria related to non-discrimination against Persons with Disabilities and their classification, the National Strategy did not include in either Phases I or II any reference to the need to establish mechanisms to document non-discrimination efforts and monitor violations. In addition, annual reports issued by the National Center for Human Rights <sup>(83)</sup> (NCHR), as well as its “parallel” report on the extent of Jordan’s commitment to CRPD’s provisions <sup>(84)</sup>, failed to include such information and data, and was limited to assessing the legislative status quo and practices from the perspective of services provided for Persons with Disabilities. The report cited some examples of specific instances of violations but without sufficient analysis and documentation to allow for establishing specific guidelines for combating discrimination so that such violations can be eradicated. This reflects the sliding of the rights-based approach to disability issues, even from the agendas of human rights institutions.

When discussing the rights and obligations which Jordan started to implement immediately after ratifying CRPD, and those that are still pending or in progress, it is noted that the Jordanian legislator took a positive proactive step before the endorsement of CRPD and its publication in the Official Gazette, by issuing Law No. 31/2007 and involving, for the first time, Persons with Disabilities and Disabled People Organizations (DPOs) in the drafting of the provisions of this Law, reflecting a progressive participatory approach in national legislation.

In addition, the Ministry of Interior proved responsive to the demands of the TAKAFO’ campaign to promote the rights of Persons with Disabilities <sup>(85)</sup>, and issued new regulations guaranteeing Persons with Disabilities the ability to vote in the 2010 parliamentary elections in total secrecy and independence, by allowing them to vote with the aid of a personal assistant of their choice. Additionally, centers were equipped as to be suited for persons with physical disabilities, and sign language interpreters were made available in many polling stations, as per the details in Article (29) of this report.

All of the actions above, no doubt, show significant progress in the response of the executive bodies to the obligations of states that are party to the CRPD. These initiatives culminated in the legislator’s favorable response to the TAKAFO’ campaign’s call to include a special clause in the Constitution which refers to the rights of Persons with Disabilities <sup>(86)</sup>. That said, there are strong reservations about how this matter was addressed in the Constitution, and about the failure to consider the campaign’s proposal, which accurately embodies the rights-based approach, as detailed in the introduction to this report.

In the area of rights which are still not activated, pending or in progress, it is to be noted that the decision-maker in Jordan had not issued up until the launch of this report, the regulations and instructions needed to apply the provisions of Law No. 31/2007. All that was done is in the form of haphazard individual initiatives or nothing at all. Examples of this are the retaining of the legal texts that demean the legal capacity of Persons with Disabilities in the Civil Law <sup>(87)</sup> and the Personal Status Law <sup>(88)</sup>, as detailed in Article (12) of this report, as well as the legal provisions that perpetuate the medical approach when it comes to Persons with Disabilities practicing their rights and fundamental freedoms and accessing public services, as described in various articles of this report, especially articles (12), (24), (25) and (27).

It should be noted that inclusive education gets the lion’s share of texts in Law No. 31/2007 and in both phases of the National Strategy <sup>(89)</sup>. Despite that, however, the special education and institutional care approach still dominates the education sector for Persons with Disabilities at various stages of elementary education.

With regard to the level of participation of Persons with Disabilities and DPOs in the preparation of

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83- <http://www.nchr.org.jo/arabic>

84- Parallel report to the government report on the International Convention on the Rights of Persons with Disabilities, National Center for Human Rights, the Hashemite Kingdom of Jordan, 2011.

85- <http://www.takafo.org>

86- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=5117](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=5117)

87- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=43&year=1976](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=43&year=1976)

88- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2010)

89- <http://hcd.gov.jo/str14.htm>. The National Strategy; Phase II, the Axis on Inclusive Education, pp. (54-60). <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

legislation and policies relating to their rights, issues and the evaluation of these, it was noted that the Jordanian legislator adopted a participatory approach in the preparation and drafting of the Law No. 31/2007.

The case was similar for the preparation of the National Strategy Phases I and II, which saw the participation of a good number of Persons with Disabilities and DPOs. It is worth mentioning in this regard that the Higher Council for Affairs of Persons with Disabilities (Higher Council) organized an expanded National Conference in late 2009, which included DPO representatives, service providers and individuals active in the field of human rights. The conference evaluated achievements in the Strategy's various categories from 2007 to 2009 (90), and outlined what should be done and focused on during the upcoming period. This resulted in a set of recommendations (91) which the Higher Council classified and worked to include in Phase II of the National Strategy (92).

Questions arise when it comes to the involvement and participation of Persons with Disabilities and DPOs in decision-making processes, whether in legislation or policies, as to how effective this participation is, given that consultative meetings (93) revealed certain dissatisfaction with the level and nature of participation.

Some individuals pointed to the exclusion of many Persons with Disabilities from decision-making processes, and specifically persons with psychosocial and intellectual disabilities, as well as families of Persons with Disabilities (94). In fact, this point of view is confirmed in the mechanism for the representation of Persons with Disabilities on the Board of Directors of the Higher Council, the body that is active in the decision-making processes, policy development and follow-up with the different executive bodies. Per Article (6) of Law No. 31/2007, paragraph (e) clause (11) and (12), the representation of Persons with Disabilities is limited to two representatives of visual disability, two of hearing impairments, two of physical disability and one representative of families of persons with intellectual disabilities (95).

The imbalance is clear in the representation of Persons with Disabilities in this text, where the persons with psychosocial and intellectual disabilities are limited to the participation of one person representing their families, without a systematic or legal justification for this disparity in the number of representatives or the exclusion of persons with psychosocial disabilities in this way.

In light of this legislative fact, and on the policy level, it is not expected that the national legislation system will include more advanced and effective criteria or measures to promote the rights of Persons with Disabilities and combat discrimination against them.

## ***Practices***

The medical definition adopted for the state of disability and defining the Person with a Disability in the system of national legislation of Jordan has led to the exclusion of many persons who are confronted with a situation of disability in its comprehensive sense, where the individual factors intersect with environmental and attitudinal constraints, leading to the exclusion of these persons, and discrimination against them in the exercise of their rights and freedoms on an equal basis with others.

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90- <http://hcd.gov.jo/conf.htm>

91- <http://hcd.gov.jo/arch127.htm>

92- <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

93- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 until July 16, 2011.

94- Consultative meeting in the Central Region for the governorates of Amman and Madaba, to discuss the draft report July 16, 2011 in Amman

95- [Http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007). Clauses (11) and (12) in Article (6) of Law No. 31/2007: "11. Six representatives of persons with disabilities; two of them with visual disability and two with physical disability and two with hearing disability are appointed by the Council of Ministers upon the recommendation of the HCD Board with each of the representatives of disabilities related to working associations related to the disability, 12. One representative of people with psychosocial disabilities appointed by the president

Examples of this include the law's failure to recognize invisible disabilities and the executive bodies' disregard for persons with psychosocial disabilities, as they were not represented on the board of the Higher Council nor were they granted a license by the authorities to establish an association or federation under the name of "persons with psychosocial disabilities". (96) However, persons with psychosocial disabilities are covered by the text of Law No. 31/2007, in Article (2) in which it notes in the medical definition the aspects of "deficiencies to the senses" or "capacity" - as stated by the law - "senses and psychosocial capacity".

In a more bizarre example, in identifying those stipulated under the provisions of Law No. 31/2007, persons with a height disability, known as "little people", were not recognized by responsible authorities as Persons with Disabilities until only recently (97). This delay in the recognition of a category of persons with a clear and visible physical disability shows the extent of confusion and ambiguity surrounding the understanding of the legislators, decision-makers and executive bodies of both the concept of status of disability, which in turn hinders a person from exercising their rights and freedoms, as a result of environmental, material and non-material barriers, as well as personal factors.

In the area of reasonable accommodation, some government agencies have for a while now provided some forms of accommodation for Persons with Disabilities depending on what these entities provide in terms of programs and services, or for people who work in one of its departments or divisions. This includes what the Ministry of Education provides in terms of curriculum for elementary and secondary education in Braille to blind students, and making available computers equipped with screen readers to students and staff with visual disabilities, along with the Ministry's attempts to secure transportation services for students with disabilities enrolled in the Ministry's schools for Persons with Disabilities, and the Ministry's attempts to make some school entrances in different governorates accessible (98).

There are positive initiatives undertaken by national institutions and non-governmental organizations and universities, aiming to provide forms of reasonable accommodation, especially for persons with visual disabilities and persons with hearing impairments (99). These initiatives are explained in detail in the various articles contained in this report.

Some practices point to the negative effect caused by a lack of understanding of the general principles of CRPD and the Law No. 31/2007, and not including these in other texts and national policies and strategies relating to the rights of Persons with Disabilities and their issues. This effect is evident in the way some provisions of Law No. 31/2007 are understood and applied.

For example, some public and private institutions require "health fitness" as a criterion for employing Persons with Disabilities, or rejecting their application for a job, even in the case of the quota, which Law No. 31/2007 requires that it be applied if "the nature of the job allows the employment of a Person with a Disability" (100), according to what is described above and as detailed in Article (27) of this report.

Another example in this regard are the initiatives that some executive bodies take that lead to the creation of exclusionary environments especially in the field of education, such as the projects known as "homes for independent living" for persons with intellectual disabilities (101), which the bodies implement

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96- Consultative meeting in the Central Region for the governorates of Amman and Madaba to discuss the draft report held on July 16, 2011 in Amman

97- Consultative meeting in the Northern Region for the governorates of Irbid, Ajloun and Jerash to discuss the draft report held on June 22, 2011 in Irbid

98- Interview with Dr. Daoud Maaytah, Director of Special Education Directorate, Ministry of Education, October 19, 2010; Panel discussion with 250 activists and representatives of associations of persons with disabilities and service providers on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

99- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 - July 16, 2011

100- Consultative meetings held in Amman, Irbid and Aqaba, Karak; including the governorates of Amman, Madaba, Irbid, Ajloun, Jerash, Aqaba, Maan, Karak and Tafila, to discuss the draft report the period from June 22, 2011 - July 16, 2011

101- Interview with Manar Madanat, representative of the Higher Council for Affairs of Persons with Disabilities in Southern region, February 1, 2011, and an interview with Fawzia Sabe'h, Secretary General of the Ministry of Social Development, October 5, 2010, and an interview with the Karak Directorate of Social Development October 3, 2010. [http://www.mosd.gov.jo/images/files/al-we7dat\\_aledarya/alash5as\\_almo3awqeen.pdf](http://www.mosd.gov.jo/images/files/al-we7dat_aledarya/alash5as_almo3awqeen.pdf)



with the thinking that they are working on applying of CRPD's provisions and general obligations, as set out in detail in other parts of this report.

Perhaps the absence of reports monitoring the human rights situation by documenting cases of abuse and discrimination against Persons with Disabilities and working to eliminate them refers to the absence of standards and measures against discrimination on the basis of disability. This explains the recurrence of cases of assault and abuse of Persons with Disabilities, which may amount to the loss of lives and the infliction of bodily and psychological harm to them, as detailed in Articles (14),(15),(16) and (17) of this report.

With regard to the participation of Persons with Disabilities and their inclusion in decision-making processes related to their rights, causes and issues, some positive initiatives were noted at the national level, and the representation of specific DPOs on the Board of Directors of the Higher Council is secured through pre-determined percentages. However, the effectiveness of this participation is in question when it comes to the development, implementation and evaluation of policy, and whether those participating are limited to the ones concerned with theories, to the exclusion of real advocates for the required change.

The answer to this question is clear, as the Law No. 31/2007 and the phases of the National Strategy did not contain clear measures for the need to support and strengthen the participation of Persons with Disabilities and DPOs in decision-making processes, pursuant to the provisions of CRPD's Articles (3) and (4). Therefore, the talk about mere participation in numbers does not appear to be achieving CRPD's goal of making the participation of Persons with Disabilities and supporting DPOs to enable them to participate effectively in decision-making processes, as one of its enforceable general obligations.

Based on this, the adoption of a method of direct appointment of DPO representatives to the Higher Council's Board of Directors (Article 6, paragraph (e) items 11 and 12), and failing to choose them through transparent elections, is not in line with achieving participation and effective representation for Persons with Disabilities in policy development and implementation follow-up <sup>(102)</sup>. The imbalance in including Persons with Disabilities and the weakness of their participation has led to a feeling and perception among many individuals and institutions that they are not an issue of public concern and that they are far removed from the agendas of decision-makers.

This was expressed by a group of women with disabilities and persons with psychosocial disabilities, and representatives of families of children with intellectual disabilities <sup>(103)</sup>, in addition to the lack of involvement of children with disabilities in any of the decision-making processes, and the absence of programs and services or evaluation, as detailed in Article (7) of this report.

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102- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 - July 16, 2011

103- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 - July 16, 2011

## ***Recommendations for Articles (1-4): Purpose, Definitions, General Principles and General Obligations***

### ***At the policy and legislation level:***

1. Eliminate the medical definition of a Person with a Disability as noted in the Law No. 31/2007, and adopt a holistic definition based on the principles of human rights and CRPD and include it in policies, strategies and different national legislations.
2. Promote the concept of reasonable accommodation and include it in strategies and plans for ministries and various executive bodies.
3. Amend the provisions of Law No. 31/2007, and other texts on the rights of Persons with Disabilities and their issues in all laws to reflect CRPD's general principles.
4. Issue executive regulations and instructions that ensure the application of the provisions of Law No. 31/2007 and other related legislative texts that achieve CRPD's purpose.
5. Amend the text of Article (6), paragraph (e) clauses (11) and (12) relating to the representation of Persons with Disabilities on the Board of Directors of the Higher Council and noting their full representation as well as that of DPOs, without exclusion, especially persons with psychosocial disabilities, persons with intellectual disabilities and persons with invisible disabilities.
6. Develop standards and guidelines to combat discrimination against Persons with Disabilities, and amending legislative texts, including texts of the Law No. 31/2007, based on a philosophy of non-discrimination.

### ***At the practical level:***

1. Organize advocacy and lobbying campaigns by DPOs and activists in the field in order to achieve the recognition of persons with psychosocial disabilities and persons with invisible disabilities in legislation and policies.
2. Develop the capacity of DPOs, and training their members and individuals to effectively demand reasonable accommodation in various fields.
3. Enhance the capacity of DPOs and activists in the field of human rights and CRPD and negotiation skills, etc., to ensure effective participation in decision-making processes concerning their rights and causes and issues.
4. Adopt a mechanism of effective and transparent elections to choose representatives of Persons with Disabilities and DPOs for the Board of Directors of the Higher Council.
5. Improve cooperation among DPOs and supporting networking with human rights organizations, in order to create an effective mechanism through which to document cases of discrimination and violations against Persons with Disabilities, and working to combat and eradicate them.
6. Establish judicial practices and applications that entrench the concept of non-discrimination in the rights of Persons with Disabilities, through advocacy campaigns carried out by DPOs and human rights organizations targeting the judiciary.

## **Articles (5):**

# **Equality and Non-Discrimination**

**[Back to content page](#)**



## ***Analysis of Current Legislation and Policy***

The Jordanian legislature did not adopt non-discrimination as a philosophy or approach for a platform on which the system of national legislation, and associated policies and practices are based. However, the Jordanian Constitution includes some provisions that emphasize the prohibition of discrimination on various grounds that do not in fact include disability or gender (104).

In the area of the rights of Persons with Disabilities, some signs suggest the beginning of the formation of a will on the part of legislator to adopt a philosophy of non-discrimination, even on a small scale. We can detect these signs in the provisions of Law No. 31/2007, which included a very good definition of discrimination on the basis of disability, consistent with the bare minimum of human rights principles, and in harmony with CRPD and what it includes in this regard in Article (2), as well as the provisions of the International Bill for Human Rights.

Article (2) of Law No. 31/2007 defines discrimination on the basis of disability as: "every limitation or restriction, exclusion or revocation or denial that is attributed to disability, for any of the rights and freedoms stipulated in this Law or in any other law". (105)

In addition, Article (3) of the same Law notes non-discrimination as one of the pillars upon which the general provisions are based, as referred to in Articles (1-4) of this report.

Despite the existence of such texts in the Jordanian Constitution and Law No. 31/2007, it could be argued that the system of national legislation in Jordan reinforces forms of discrimination against Persons with Disabilities, something rarely observed in legislation around the world. The text of Article (467) of the Jordanian Penal Law No. 16/1960 states that: "it is punishable by a fine of up to JD 5 he who lets free a harmful animal or someone 'insane' under his guard (106)", which reflects, clearly and without a doubt, the legislature's adopted philosophy of a stereotypical discriminatory approach against Persons with Disabilities, especially those with psychosocial disabilities, to the extent of describing them as «animals» or non-predatory pets.

The texts of the Civil Law (107) and the Personal Status Law (108) and Notary Law (109) are full of terms and provisions that discriminate against Persons with Disabilities, relegating them to the status of an undiscerning child under seven years of age ineligible in legal actions, personal or administrative transactions, as detailed in Article (12) of this report.

In reality, having a discriminatory legislative status in this way makes it difficult to imagine that Persons with Disabilities can utilize national laws as a means to fight discrimination against them, and to secure rights and equal opportunities, even with the existence of positive signs in the Constitution and Law No. 31/2007 referred to before, which have not yet found a way to be fully applied in reality.

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104- Amendment to the Constitution of Jordan for the year 2011, Article 1: Article (6) of the Constitution is amended as follows: First :..... Second: by adding paragraphs (4) and (5) to the texts in the following: 4. Family is the foundation of society founded on religion, morality and patriotism, the law preserves its legal structure and strengthen its ties and values. 5. The law protects motherhood, childhood and old age and supports youth and people with disabilities and protects them from abuse and exploitation. <http://www.pm.gov.jo/pmstatements/image.aspx?cabname=govpaper&dwid=31830>

105- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

106- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

107- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=43&year=1976](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=43&year=1976)

108- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2010)

109- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1951&no=74](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1951&no=74)

The National Strategy document in Phase II included references to non-discrimination and equality (110), without a plan or a clear vision on how to achieve this at the level of national policies and legislation and then practice.

With regard to the special measures noted in Article (5) of CRPD, as a means of accelerating the process of achieving equality for Persons with Disabilities, without considering this a form of discrimination, Law No. 31/2007 included a number of these measures as a major tool to promote the rights of Persons with Disabilities, and not just as a temporary special measure subject to the process of accelerating the achievement of equality and equal opportunities as required in CRPD.

An indication of the effectiveness of practice and achieving equality of the rights of Persons with Disabilities to work, for example, depends on the commitment of the executive bodies of government and the private sector to employ the required percentage noted in Article (4), paragraph (c) clause (3), of Law No. 31/2007, with the presumption of commitment of these parties to its provisions. This represents the minimum to ensure that Persons with Disabilities can exercise their right to work and habilitation. In addition, this measure should not overlook the requirement of efficiency for Persons with Disabilities accessing their right to work and habilitation, on an equal basis with others as detailed in Article (27) of this report. The same is said about the special measures cited by Law No. 31/2007 on the exemption of vehicles used by Persons with Disabilities, in accordance with the provisions of Article (4), paragraph (f), which does not relieve the State, nor should it, of its commitment to provide the needed physical environmental and attitudinal rehabilitation for Persons with Disabilities.

In fact, the adoption of policy-makers and legislators of the welfare-service approach in dealing with the rights of Persons with Disabilities has resulted in a trend reflected in the strategies, plans, programs and legislation, which is meeting the current individual "needs" of Persons with Disabilities, regardless of working to establish the culture of legal rights based on the principles of human rights, and accessing the judicial system as an effective means for combating non-discrimination and protecting and promoting rights.

## ***Practices***

The absence of previous court rulings in applying CRPD's provisions, and even Law No. 31/2007, are indicators of the absence of a culture of reverting to law and access to justice as a means of promoting human rights, and to achieve the principle of rule of law when such rights are violated or freedoms are restricted or when the enforcement of provisions or international conventions ratified by the state, as well as its enforceable national legislation, are not followed through.

In many instances, consultative meetings (111) and case studies (112) conducted by the report team point to the reluctance of Persons with Disabilities and DPOs to recourse to justice as a means to achieve their demands in cases where the law allows them to do so.

The right to employment, education, health and environmental accessibility and reasonable accessibility are areas in which observers noted the existence of most violations and forms of discrimination on the

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110- National Strategy, Phase II, pages (11,14, 25, 38) <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

111- Consultative meetings held in various regions of the Kingdom to discuss the draft report June 22, 2011 - July 16, 2011. Consultative meetings in cities to discuss the results of the regional consultative meetings July 16, 2011 to August 4, 2011.

112- A case study on the rights of persons with visual disabilities in employment, December 22, 2010. Case study: Yasser El-Shafei, on the circumstances of persons with disabilities who do not hold Jordanian citizenship, January 11, 2011.

basis of disability, in accordance with priorities identified by Persons with Disabilities and DPOs who participated in the preparation of this report and the consultative meetings for the presentation and discussion of findings and recommendations, as described in the Methodology section above.

Practice indicates that discrimination on the basis of disability often surpasses Persons with Disabilities themselves, and extends to all of those related to them like relatives or children. Recently published newspaper articles document cases of families refusing members' marriage to someone who has Persons with Disabilities in the family (113). Other experiences discussed in the consultative meetings include the refusal of some schools to accept students whose one or both parents has a disability(114).

### ***Recommendations for Article (5): Equality and Non-Discrimination***

#### ***At the policy and legislation level:***

1. Adopt non-discrimination as a philosophy in legislation and a framework for laws and policies on the rights of Persons with Disabilities and their causes.
2. Review the system of national legislation and abolish all texts that perpetuate a form of discrimination based on disability or on any other basis.
3. Amend the provisions of special measures in Law No. 31/2007 on the "quota" of work and exemptions, so that conditions are set in the context of a temporary special measure aimed to accelerate the achievement of equality and equal opportunities, and to place the emphasis on the State's obligation to do so, within a clear and specific time frame.

#### ***At the practical level:***

1. Assist DPOs and human rights organizations to adopt the litigation advocacy approach to combat discrimination and bolster CRPD provisions and related provisions in national legal texts.
2. Strengthen a culture of human rights and acceptance of others at all levels of decision-making, executive bodies, local communities, service providers and Persons with Disabilities and DPOs.
3. Establish and activate a set of practical and effective measures to combat discrimination so that they become standards and controls to be followed in the development of plans and programs, as well as service delivery and evaluation.

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113- Article entitled «Disability is part of human diversity not a social barrier» by Prince Raad bin Zeid <http://www.hcd.gov.jo/2011/61.htm>

[http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2011%5C07%5CLocalAndGover\\_issue1380\\_day24\\_id343614.htm](http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2011%5C07%5CLocalAndGover_issue1380_day24_id343614.htm)

114- Case study resulting from the consultative meeting in the Central Region for the governorates of Amman and Madaba to discuss the draft report held on July 16, 2011 in Amman.

## **Articles (6):**

### **Women with Disabilities**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The proposed constitutional amendments proved disappointing for human rights activists in the public arena, as they failed to include "gender" as a base for prohibiting discrimination. Underlying this approach by decision-makers are political, demographic reasons, and weak excuses concerning the social context, traditions and customs.

The constitutional legislator has taken this approach despite repeated recommendations made by the UN Committee on Elimination of Discrimination against Women (115), which urged the Jordanian state to include such a provision in the Constitution, pursuant to the commitments it made when it ratified CEDAW in 1992 (116), and published it in the Official Gazette in 2007 with some reservations, which will be mentioned later (117).

With regard to women with disabilities, they undoubtedly face compound discrimination, on the basis of disability as well as gender, and perhaps on the basis of marital status, place of residence in case they live in remote areas, and other grounds of discrimination. At the level of national plans and policies related to women in general, these do not embrace the issues of women with disabilities as a priority that should be highlighted and dealt with.

Despite the fact that the National Strategy for Jordanian Women (2006-2010), issued by the Jordanian National Commission for Women (JNCW) (118), has timidly noted the rights of women with disabilities, we note that this strategy, which is meant to constitute the general framework of plans and policies related to women, has taken up the issues of women with disabilities from the service-based perspective of special needs, which stems from the previously mentioned medical approach. The strategy went even further and added a discriminatory dimension that can be noted through a quick review of the content which states that disability is a "problem" that should be "warned against, prevented and its effects mitigated", which shows that any disability is a special need that should be tackled through specialized services (119).

In the same direction, review and analysis of reports issued by governmental bodies as well as national semi-government institutions, on the status of women in light of the general obligations and the detailed provisions of the CEDAW Convention, show that the issues of women with disabilities are not highlighted in these reports, confirming the above-mentioned non-inclusion of these issues as one of the priorities of the women's rights movement in Jordan.

The JNCW's national report on the situation of women tackled the issue of disability very briefly and in two specific instances as welfare, service-oriented issue, without addressing the various forms of discrimination and exclusionary practices faced by women with disabilities (120).

In terms of legislation and strategies for Persons with Disabilities, Law No. 31/2007 in Article (3) notes that equality of rights and duties between men and women with disabilities is one of the general principles and main pillars of its provisions. However, this principle does not seem to be clearly reflected in other provisions of this Law, which were devoid of any special provisions related to promoting the rights of women with disabilities, and activating their participation at various levels, including participation in decision-making processes.

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115- <http://www2.ohchr.org/english/bodies/cedaw/cedaws39.htm>

116- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en)

117- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=4839](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=4839)

118- National Strategy for Jordanian Women (2006-2010) the National Commission for Women

119- National Strategy for Jordanian Women (2006-2010). Pages (32-33), Article VII: area of special needs, the Jordanian National Commission for Women

120- The National Report of the Hashemite Kingdom of Jordan on the Situation of Women (Page 11 & 55) [css.escwa.org.lb/ecw/1065/Jordan\\_formatted.doc](http://css.escwa.org.lb/ecw/1065/Jordan_formatted.doc)

The same approach can be observed in how the National Strategy's Phase I (2007-2009) dealt with this issue, in that it restricted it to a general and narrow mention concerning services, as noted by the objectives of the strategy: "Improving the level of services provided to Persons with Disabilities in various forms, and harnessing their energies in the best possible way, and taking into account the differences between the sexes."

With the exception of this reference limited to the need to take into account the differences between the sexes, the National Strategy's Phase I was also not in line with CRPD's principles and spirit and provisions, which devoted a special article on women, and referred to their rights throughout its various sections (121).

The situation has not improved with the review of this strategy and its re-issuance in Phase II (2010-2015). The National Strategy's new version included a paragraph on gender and disability which reads more like an article or research paper that does not relate to the Strategy's objectives or programs (122).

In addition, the mention of women with disabilities was scattered throughout the document in such areas as Health (123), and Family Empowerment and Social Protection (124). These references are superficial mentions that do not touch on nor address the issue of compounded discrimination faced by women with disabilities.

The issue of Jordanian women married to foreigners not being able to grant their nationality to their children or husband, in accordance with the provisions of Jordanian Nationality Law (125) is a problem of concern to women in general, and puts women with disabilities in particular in a position of discrimination and exclusion, posing barriers that prevent the enjoyment of their fundamental rights and inherent freedoms, on an equal basis with others.

In this case, women are subject to discrimination based on disability, gender and nationality together, as detailed in Article (18) of this report.

## ***Practices***

Conducting hysterectomies for sterilization, and specifically for girls with intellectual or psychosocial disabilities, is the most prominent and aggressive form of violation committed against women with disabilities. This practice has been systematically tracked and monitored by the report team and activists in the area of the Rights of Persons with Disabilities, as well as the Committee on the Rights of Women with Disability at the Higher Council. The latter recently noted that around 64 hysterectomies are carried out in Jordan every year for women with intellectual disabilities (126) and it was confirmed by an official at the Department of Obstetrics and Gynecology at Al Bashir public hospital, which belongs to the Ministry of Health, that between three to four such surgeries are carried out annually at the hospital for girls with intellectual disabilities and that he "supports" the conduct of such operations (127), as detailed in Article (17) of this report.

It also seems that abortions conducted for girls with disabilities is as dangerous as hysterectomies, especially with the existence of mitigating excuse for the punishment stipulated in the Penal Law,

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121- <http://www.hcd.gov.jo/str.htm>

122- National Strategy, Phase II, pages (27-28), <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

123- National Strategy, Phase II, pages (45-49) Article on Health and Disability <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

124- National Strategy, Phase II, pages (68-71) Article on Family Empowerment and Social Protection, <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

125- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=6&year=1954](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=6&year=1954)

126- <http://alrai.com/article/11834.html>

127- <http://www.alghad.com/index.php/article/311922.html>

in Article (324) (128); if the act was committed to maintain "honor and reputation", while taking note that hysterectomies for women with intellectual and psychosocial disabilities are done to avert the possibility of pregnancy in case of rape to maintain "honor and reputation" according to the details in Article (17) of this report.

In fact, prevailing unfair habits and customs in Jordan make women with disabilities - especially in remote areas - vulnerable to abuse and violence, even torture, which may amount to death, as was the case with one of the girls with intellectual disabilities in South Jordan, where her brothers locked her in a barn for several years, and took turns in beating her until she died of fractures and wounds and burns (129). The same is confirmed by case studies, interviews and consultative meetings (130) , as set out in more than one section, especially in Articles (14- 18) of this report.

It should be noted that there is a deficiency in, if not a complete lack of, formal or informal indicators which could help effectively identify cases of violence against women with disabilities, which was confirmed by officials in the Family Protection Department who noted that they had not received any complaints or notifications regarding cases of violence against women with disabilities (131).

The UN Committee on the Elimination of All Forms of Discrimination against Women noted a deficiency in the fifth government report from Jordan with regards to women with disabilities, especially with regard to the subject of protection from violence and addressed the government requesting more information about this issue (132). In this regard, the government had mentioned women with disabilities in a modest manner in the fifth report, reflecting severe limitations in the availability of statistics, information and actual achievements that can be showcased in this area.

The report cited a set of simple services that were provided to women with disabilities, without a statement or reference to the reality of discrimination and exclusion, and systematic violence and abuse that women face, not to mention the lack of rehabilitation services and facilities available to women, especially services and programs related to protection from violence, as set out in Article (14) of this report.

It should be noted that this is the first time that an official report submitted to the United Nations in relation to a legal convention refers to women with disabilities, as such reports have traditionally ignored this issue, as was the case with the various official reports on CEDAW, that were submitted until 2007 (133), as well as shadow reports and other reports by civil society organizations during the same period, which failed to even mention women with disabilities in discussing the general status of Jordanian women (134).

Positive initiatives by civil society organizations and the government to include the issues of women with disabilities in their reports and programs have recently emerged. These require active mobilization by women with disabilities and DPOs, to strengthen and properly frame these initiatives.

The results of a questionnaire developed by the report team show that a large percentage of those surveyed, amounting to 59.56%, see that there are no measures taken to ensure that women with

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128- Consultative meetings held in various regions of the Kingdom to discuss the draft report June 22, 2011 - July 16, 2011.

129- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

130- [http://www.alarabalyawm.net/pages.php?news\\_id=287089](http://www.alarabalyawm.net/pages.php?news_id=287089)

131- Interview with Brigadier Mohammad Zu'bi and Major Sadeq Omari, Department of Family Protection, January 1, 2011

132- <http://www2.ohchr.org/english/bodies/cedaw/cedaws51.htm>

133- <http://www.un.org/womenwatch/daw/cedaw/reports.htm>

134 [http://www.iwraw-ap.org/resources/pdf/39\\_shadow\\_reports/Jordanian\\_SR\\_2.pdf](http://www.iwraw-ap.org/resources/pdf/39_shadow_reports/Jordanian_SR_2.pdf)



disabilities enjoy human rights and fundamental freedoms on an equal basis with others, while those who felt otherwise did not exceed 16.04% (135).

### ***Recommendations for Article (6): Women with Disabilities***

#### ***At the policy and legislation level:***

1. Include the rights of women with disabilities and their issues in national strategies and plans relating to women, whether issued by governmental or semi-national governmental or non-governmental organizations, with the participation and involvement of women with disabilities and DPOs in an active and productive manner.
2. Review the Strategy and add a special article on women that addresses all relevant issues, and develop programs and activities to achieve the promotion of their role and participation and ensure there that they do not suffer from violence and ill-treatment.
3. Explicitly note in laws the criminalization of sterilization processes, specifically hysterectomies of girls with disabilities.
4. Cancel the mitigating circumstances set out in Article (324) of the Penal Law, relating to the crime of abortion on the grounds of maintaining "honor and reputation".
5. Lift the reservation on Article (9), paragraph (2) of CEDAW, and amend the Jordanian Nationality Act, giving women the right to grant nationality to their children and foreign husbands.

#### ***At the practical level:***

1. Establish an effective mechanism to follow up and monitor the practices of violence and abuse against women with disabilities, including hysterectomies, abortions, and sexual assaults committed on the basis of disability, with every agency having a clear role in this mechanism, including the Higher Council and the Ministries of Interior, Justice and Health and the National Council for Family Affairs.
2. Set up an accessible hotline for women with disabilities that is equipped with sign language, text messaging and other forms of reasonable service facilities to report any incident of violence or exploitation or assault on the basis of disability.
3. Design programs to develop the capacities of women with disabilities and DPOs in the field of human rights and CRPD and ways to communicate with the relevant authorities to lodge a complaint, and mechanisms of legal recourse in case of women's vulnerability to any kind of violence, exclusion or discrimination;
4. Create specialized services for women in general, to allow equal access for women with disabilities.
5. Include the issues of women with disabilities in the agendas of women's rights organizations and human rights organizations and semi-official, governmental national bodies and consider these issues in the design and implementation of programs and activities and the preparation of reports issued by those entities.

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135- Questionnaire designed by the report team and distributed in various Governorates of the Kingdom to measure the content of stakeholders in enjoying rights and access to basic services.



## **Articles (7):**

### **Children with Disabilities**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Although Jordan had ratified the Convention on the Rights of the Child (CRC) in early 1991 <sup>(136)</sup>, enforcing this Convention at the national level had been delayed 15 years, as it was not published in the Official Gazette until 2006 <sup>(137)</sup>. Though CRC did not provide for detailed provisions for children with disabilities and the discrimination they face based on disability, most CRC texts, especially those of Article 2 and Article 23, indicate that states that are party to the Convention have an obligation to achieve equality and equal opportunities for all children without discrimination <sup>(138)</sup>.

With regard to the participation of children with disabilities in planning and program development, it is noted that they are not represented in the governing body of the Higher Council as Law No. 31/2007 limits the representation of Persons with Disabilities to adults, with one representative of families of persons with intellectual disabilities whether those are children or adults <sup>(139)</sup>.

A reading of the provisions of the National Childhood Strategy for the years 2004-2013, issued by the National Council for Family Affairs (NCFA) <sup>(140)</sup>, shows that this plan tackled the issue of children with disabilities from the perspective of "special needs", especially in the field of education and the need to provide a proper school environment that enables them to exercise this right easily and conveniently. The plan lacked the rights-based framework which should address the issues of children as rights set forth in CRC as well as CRPD <sup>(141)</sup>.

Contained within the Strategy is a recommendation to allocate a proportion of representation for children with disabilities (quota) <sup>(142)</sup> in the "Children's Parliament", which is the window through which children participate and express themselves. Perhaps this recommendation reflects the need to strengthen the participation of children with disabilities as key partners and actors in the process of making decisions about their affairs.

The interview conducted by the report team with NCFA reveals that the Council is preparing a parallel report to the official Jordanian report on CRC, with the purpose of presenting the views of children and "youth" in Jordan about their rights. This report will be presented to the International Committee for CRC. In this regard there are attempts to consult with children with disabilities <sup>(143)</sup> as part of a team formed by NCFA in cooperation with UNICEF, to prepare a national report on the status of implementation of CRC in Jordan. However, it seems clear from this meeting and from annual reports issued by NCFA <sup>(144)</sup>, and in light of the failure to activate the role of the Children's Parliament (which has not held meetings since 2004 <sup>(145)</sup>) that there is no clear mechanism to ensure representation and active participation of children with disabilities in decision-making processes, planning and program design.

It is worth mentioning that NCFA's 2003 Strategy of Early Childhood Development in Jordan has not been updated until now <sup>(146)</sup>. Moreover, despite its publication at a time of a growing global trend towards integration and active

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136- [http://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&lang=en)

137- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=4787](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=4787)

138- [http://www.unicef.org/jordan/arabic/resources\\_1951.html](http://www.unicef.org/jordan/arabic/resources_1951.html)

139- Article 6, paragraph 5 of Law No. 31/2007 [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

140- <http://www.ncfa.org.jo/Portals/1/Publications/Plan%202.pdf>

141- National Plan for Children, for the years 2004-2013, p. 94 <http://www.ncfa.org.jo/Portals/1/Publications/Plan%202.pdf>

142- National Plan for Children, for the years 2004-2013, p. 176 <http://www.ncfa.org.jo/Portals/1/Publications/Plan%202.pdf>.

143- Interview with Mr. Mohammad Miqdadi, Program Director, National Council for Family Affairs, January 1, 2011.

144- <http://www.ncfa.org.jo/tabid/127/default.aspx>

145- A telephone interview with the Jordanian Women's Union, Hikmat Halaseh member of the executive committee of the Union, Chairman of the Committee on the Rights of the Child, Jordan, the program coordinator for the Children's Parliament of Jordan, October 4, 2011

146- [http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20\\_2.pdf](http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20_2.pdf)

participation of Persons with Disabilities in various walks of life, including children with disabilities, the Strategy focused on "special needs" of children with disabilities, as a theoretical and practical framework governing the actions and measures taken to deal with this segment of society.

This is clear in the Strategy's section on children with disabilities, entitled "Children with Special Needs" (147). This section notes in the process and policies related to early childhood development, the use of the term "educationable children (148)" which reflects the stereotypical approach of dealing with children with disabilities, as set forth in Article (24) on the right to education in this report.

At the level of the National Strategy that was issued to provide the planning and execution framework for CRPD's principles and provisions, it is noted that Phase I of the Strategy (2007-2009) was closest to the stereotypical welfare approach referred to above. First, the Strategy did not contain a special article on children with disabilities, detailing the measures and steps to be taken to enhance their participation and inclusion in society at various levels, but merely a few references related to families and social protection (149).

This confirms the adoption of a stereotypical approach based on a welfare or care-taker mentality. In the Article on Education, for example, the Strategy used the term "in line with the potential and abilities of children with disabilities".

In the Article on Health, the Strategy deals with children as potential targets for disability which must be prevented or minimized. The picture is not very different in the National Strategy in its Phase II (2010-2015), as it deals with children with disabilities as only a target group for intervention programs, early detection and family counseling (150).

As to Law No. 31/2007, it cites in Article (3) (151) the principle which emulates the eighth one in CRPD in Article 3, which refers to the need to respect the rights of children with disabilities and their evolving capacities. However, this principle does not seem to be reflected in the rest of the detailed provisions of the Law, nor in the various sections of the National Strategy.

## ***Practices***

In practice, programs for children with disabilities lack best practices or practical applications that can be monitored and analyzed carefully, and then built upon, as there are different bodies implementing different programs in terms of content and in terms of type of disability but lack coordination between them.

Included among these efforts are special education programs carried out by the Higher Council and the Ministry of Education, as well as associations and centers registered under the umbrella of the Ministry of Social Development, which all target mostly children with intellectual disabilities, within the framework and perspective of special education, as detailed in Article (24) of this report.

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147- Jordan's Strategy for Early Childhood Development, p. 26 148- [http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20\\_2.pdf](http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20_2.pdf) .

148- Jordan's Strategy for Early Childhood Development, p. 28 [http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20\\_2.pdf](http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-arabic1%20_2.pdf)

149- <http://hcd.gov.jo/str15.htm>

150- The National Strategy, phase II, p. 45 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

151- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

In the area of social inclusion and family life, it is noteworthy that in its Article (4), paragraph (d) on Social Protection, Law No. 31/2007 touched upon the concept of alternative care for children with disabilities in case the family could not "care" for the child. However, up until now, no measures or standards have been set to clarify the activation and application of this concept (152), as detailed in Article (23) of this report.

We also note that there are multiple executive bodies working in the field of disability and childhood, with a lack of clarity of the role assigned to each, making the coordination of efforts and the implementation of the provisions of the laws affecting the rights of children in general, and children with disabilities in particular, difficult and ambiguous. Indeed, both governmental and semi-governmental agencies quarrel over areas of specialization, or the lack thereof.

This was asserted in a personal interview conducted with the NCFA Program Director and referred to before, where he noted that the NCFA's role "is to formulate national policies on the family and its members and contribute to improving the quality of their lives. With the establishment of the Higher Council for Affairs of Persons with Disabilities, that body now plays the role of looking into issues of Persons with Disabilities and caring for their affairs." (153)

As evidenced by the overlap and duplication of some of the administrative instructions issued by the Ministry of Social Development at times, and the Higher Council at other times, there is overlap and lack of coordination between different agencies, which negatively affects the pace of the process of strengthening the rights of children with disabilities, and to achieve their inclusion in the community and involve them in making decisions on issues that impact their lives.

Perhaps the field of education for children with disabilities is the best example of the unclear and overlapping roles and specializations of the different agencies. The Higher Council claims its specialization based on its reading of Law No. 31/2007 and the National Strategy and issues standards for the Accreditation of Special Education Centers (154), "provides financial support and undertakes some supervision and follow-up vis-a-vis these centers (155)".

On the other hand, the Ministry of Social Development sees that it has the jurisdiction in cases of special education, nursery schools and special education centers, on the basis of the special law which regulates its work (156). Based on this conviction, the Ministry issued a set conditions and criteria for licensing special education centers and nurseries (157), without significant coordination with other relevant authorities. Since the Ministry of Education also believes it has jurisdiction in this area by virtue of the law regulating its work (158), the Ministry established a Special Education Directorate to follow up on the «affairs» of students with disabilities and gifted students within the school or in special classes attached to them, through specialized sections for each "class" in order to adapt schools and make them accessible (159).

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152- <http://hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

153- Interview with Mr. Mohammad Miqdadi, Program Director, National Council for Family Affairs, January 20, 2011.

154- <http://hcd.gov.jo/prog4.htm>

155- <http://hcd.gov.jo/prog8.htm>

156- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=14&year=1956](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=14&year=1956)

157- [http://www.mosd.gov.jo/index.php?option=com\\_content&task=view&id=773&Itemid=68](http://www.mosd.gov.jo/index.php?option=com_content&task=view&id=773&Itemid=68)

158- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=3&year=1994](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=3&year=1994)

159- Interview with Dr Daoud Maaytah, Director of Directorate of Special Education, Ministry of Education, October, 19, 2010

The same situation applies to the protection of children from violence, exploitation and abuse, as well as providing health services and the so-called alternative care for children whose families cannot provide appropriate care for them. These are all fundamental issues and it is not clear yet which authority is responsible for implementation and follow-up, a point that was confirmed by the Shabakat Aman (Aman Network) Program Director at the Jordan River Foundation in an interview with the report team <sup>(160)</sup>. The Director indicated that Dar Al-Aman receives all children exposed to violence, except for children with disabilities, due to lack of resources and accessible environments. The exception to this are children with learning difficulties, which reinforces discrimination against children with disabilities and makes them vulnerable to illegal practices against them, without any control and follow-up, as these are lost among the bodies and institutions and the various ministries.

According to some reports and case studies conducted by such bodies as NCFA in the so-called National Framework for the Protection from Family Violence <sup>(161)</sup>, children with disabilities are subject to different types of violence and ill-treatment, whether in welfare and special education institutions or within the family, as evidenced by the case study on "Walid" which was published in the Framework <sup>(162)</sup>.

Serious questions remain about the criteria adopted for workers in nurseries and special education centers that include children with various disabilities, regardless of the body setting these criteria. The Higher Council and the Ministry of Social Development have each set their own standards and conditions relating to these centers, but all these standards put together do not seem sufficient to ensure that children are not exposed to violence, exploitation and abuse within them, not to mention that these standards do not address the activation of the participation of children with disabilities, and respecting their evolving capacities, in accordance with the provisions of CRPD and the Law No. 31/2007 Article 3.

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160- Interview with Lubna Qaddoumi, Dar Al Aman, Jordan River Foundation, April 23, 2011

161- <http://www.ncfa.org.jo/Portals/1/Publications/Family%20protection.pdf>

162- National Framework for the Protection from Family Violence, NCFA, case study of the child "Walid">, p. 55 <http://www.ncfa.org.jo/Portals/1/Publications/Family%20protection.pdf>

## ***Recommendations for Article (7): Children with Disabilities***

### ***At the policy and legislation level:***

1. Review national policies and legislation so that the issues of children with disabilities are handled based on the same principles adopted by policies and legislation that address the rights of other children, namely the principles of human rights and the texts of relevant international conventions, particularly CRPD.
2. Involve children with disabilities in the planning and design of policies and programs by ensuring effective representation and participation on committees established by relevant boards and councils, especially NCFA and the Higher Council and the Ministry of Social Development and others.
3. Encourage the establishment of NGOs where children with disabilities have a leading role and representation, as a tool to achieve effective inclusion in the civil society movement.
4. Amend the Penal Code, the Criminal Procedures Law, the Law on Protection from Domestic Violence, and Law No. 31/2007 so as to increase the penalties on acts of violence, physical abuse, psychological abuse and exploitation in all its forms, whether at home or in educational or welfare institutions, when such practices are undertaken on the ground of disability.

### ***At the practical level:***

1. Prepare and implement capacity building and awareness programs aimed at local communities and educational environments, to change the stereotypical image of children with disabilities, promoting acceptance of and respect for disability as part of human diversity and humanity.
2. Establish a mechanism to determine the roles and functions and to coordinate efforts between the executive and supervisory bodies, to include issues of children with disabilities and not make them exclusive to one entity. At the same time, ensure that no entity can evade its responsibilities in promoting the rights of children with disabilities, protecting and activating their participation on an equal basis with other children.
3. Develop and conduct training programs for children with disabilities on how to deal with acts of violence, torture, exploitation and abuse, and how to communicate with the relevant authorities, especially NCFA, and report such practices.
4. Review and standardize the accreditation and licensing of organizations, associations, centers, schools and nurseries that deal with children with disabilities, with the participation of children and their families and DPOs, so that those standards ensure the quality of the services and programs provided and the efficiency of the staff working there. This will work to achieve CRPD's principles, especially those of non-discrimination, inclusion and effective participation in society, and will contribute to accepting disability as part of human diversity and humanity, and finally, respecting the capabilities of children with advanced disabilities and their right to preserve their identity.

## **Articles (8):**

### **Awareness-Raising**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The issue of raising awareness about the rights of Persons with Disabilities and their issues ranks high in Law No. 31/2007 and in the National Strategy in Phases I and II.

Law No. 31/2007, in its Article 3 on general principles, tackled the issue of awareness and education as basic foundations which should be built upon, and from which programs, plans and activities stem, in addition to the obligations of the executive bodies, each according to its area. This Article in paragraph (j) noted the commitment of the relevant authorities to "promote awareness and education on the issues of Persons with Disabilities and their rights (163)". According to correct wording and logic, other provisions of Law No. 31/2007 were supposed to reflect this principle in detailed provisions. This was not the case in Article 7, for example, with regard to the functions of the Higher Council, as paragraph (b) notes: "Participation with the relevant authorities in the development of a comprehensive national awareness and prevention plan to reduce the occurrence of disability and mitigate its escalation."

If this provision is interpreted in light of the contents of Article (4), paragraph (a) clause (1) of the Law, which made the prevention of disability and health education a priority, we can see the new-old approach adopted by the Jordanian legislator and policy-makers on raising awareness. This is not based on rights and inclusion, but instead focuses on warning and prevention of disability, in a law originally dealing with the rights of Persons with Disabilities and seeking to promote their acceptance as part of human diversity and humanity.

This was also the case in the National Strategy -Phase I which enhanced the discriminatory link between raising awareness and placing disability in the context of a problem or obstacle that should be disposed of and prevented. In the section on "Media, Education and Communication," the Strategy explains that this area aims to "bring about a change in Jordanian society leading to a reduction of incidence of disabilities, and to a restructuring of the physical and social environment, in an effort to promote the inclusion of Persons with Disabilities and empowering them both economically and professionally (164)".

It should be noted that a shift has emerged in this regard, in what is reported in the National Strategy Phase II in the area in question, where the terms related to prevention and mitigation of a disability were omitted as an overall objective, and activities were focused on developing the capacity of those working in the field of media and the rights of Persons with Disabilities, as to undertake networking and advocacy initiatives (165).

## ***Practices***

There is no doubt that the ambiguous approach in dealing with disability issues and the separation between the achievement of equality and non-discrimination, and changing the stereotypes and negative attitudes about Persons with Disabilities and their issues on the one hand, and matters focusing on prevention that fall within the health system and related measures on the other hand, has negatively impacted programs and activities implemented for the sake of raising awareness of the rights of Persons with Disabilities.

Programs directed at the public do not promote a culture of diversity and acceptance of others and do not contribute to changing prevailing stereotypes about disability. Instead, they reaffirm a discriminatory

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163- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

164- <http://www.hcd.gov.jo/str19.htm>

165- National Strategy, Phase II, P (81-83), Article on Media, Education & Communication <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>



approach to disability, and deal with the issue as one that should be avoided and prevented.

It must be noted that there was a remarkable development at the media level during the period that followed Jordan's ratification of CRPD in 2008, as there was increased media focus on addressing disability issues from the non-traditional rights-based approach, and distancing them from prevailing stereotypes. Jordan Television (JTV) allocated a weekly segment on the rights of Persons with Disabilities in the morning program (Yawm Jadid) <sup>(166)</sup>, and some private broadcasters now air programs that address the issues and affairs of Persons with Disabilities, with some program producers and presenters themselves being Persons with Disabilities <sup>(167)</sup>.

However, it is important to note that these media initiatives are on the one hand occasional initiatives that are not based on a clear media plan with the aim of raising public awareness about the rights of Persons with Disabilities, not to mention that they are reactive and some are a result of part of competition among media outlets. Moreover, some of these programs are subject to being stopped or cancelled because of management changes at media institutions, as was the case with JTV since mid-2010 and up to the time of the publication of this report.

On the other hand, some of these initiatives lack content on the issue of promoting diversity and acceptance of others, equality and non-discrimination. In many cases, these programs showcase a negative stereotypical image of Persons with Disabilities needing to be trained, and constituting a burden on society and needing aid and donations. Instead, programs should raise awareness and combat discrimination on the basis of disability and foster a culture of diversity and acceptance of others.

A recent analytical study in Jordan of the content of daily newspapers and how they address issues of disability point to a clear decline in media attention to Persons with Disabilities and their causes, and show that newspapers generally cover Persons with Disabilities in a stereotypical manner that portrays them either as weak with constant ongoing needs, or in the form of superheroes achieving miracles, even if the achievement is a normal daily occurrence.

The study also demonstrated that the press coverage of disability issues from the rights perspective does not exceed 48% of the total news covering Persons with Disabilities, and that news and interviews with Persons with Disabilities are mostly published in inside pages, with front page coverage not exceeding 2%. <sup>(168)</sup>

As for awareness campaigns targeted to Persons with Disabilities themselves to introduce them to their rights and to how to effectively claim them, we note certain programs that some government agencies are implementing to achieve this end, as is the case in the activities and programs carried out by the Higher Council, including the National Campaign to Raise Awareness <sup>(169)</sup>. Additionally, various initiatives are funded and implemented by international organizations to build capacity and train Persons with Disabilities and DPOs. These projects contain awareness-raising campaigns and activities geared to the public and to Persons with Disabilities themselves.

That said, the absence of environmental accessibility and reasonable accommodation in media and information sources, remains a roadblock to ensuring equality and equal opportunities for Persons with Disabilities in the media, information and awareness-raising field, as detailed in Articles (9) and (21) of this report.

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166- <http://www.jrtv.jo>

167- <http://www.balad.fm/?p=155> <http://www.farahalnas.jo/>

168- <http://www.sahafi.jo/files/2d4176202577b2ef9622e8de5e21c2c3dbddea6b.html>

169- <http://www.hcd.gov.jo/321.htm> 170 [http://www.amanjordan.org/arabic\\_news/wmview.php?ArtID=12357](http://www.amanjordan.org/arabic_news/wmview.php?ArtID=12357)

Finally, according to specialized studies on the matter, we note that the curricula at the different educational stages in Jordan do not provide for a clear and consistent policy for teaching human rights principles, as well as the texts of international laws and conventions (170). The complete absence of disability issues and Persons with Disabilities in general from these curricula, with the exception of a few simple examples about some personalities, leaves young people to form their own views and theories on Persons with Disabilities, often relying on prevailing social norms based on discriminatory stereotypes and exclusion and rejection of the other.

### ***Recommendations for Article (8): Awareness-Raising***

#### ***At the policy and legislation level:***

1. Include the issues of Persons with Disabilities in the media policies of the different media bodies based on the rights approach that resists stereotypes about disability, and has a positive effect on behavior to achieve non-discrimination and establish a culture of diversity and acceptance of others, with the full and effective participation and involvement of Persons with Disabilities and DPOs.
2. Amend the provisions of Law No. 31/2007, and abolish the provisions and measures on the prevention of disability and include these in the Public Health Law.
3. Review legislation on all forms of media, in order to include the issues of Persons with Disabilities and their rights in this legislation.
4. Incorporate modules and presentations that promote the rights of Persons with Disabilities into school curricula, and establish a culture of diversity and acceptance of others that is far students from traditional images and stereotypes, regardless of whether or not they incite pity or exaggerated admiration.

#### ***At the practical level:***

1. Evaluate and analyze media programs and content relating to Persons with Disabilities and their issues and frame this in a studied approach based on human rights and acceptance of Persons with Disabilities, as part of human diversity and humanity, and reduce space for individual complaints and demands in these programs.
2. Design and implement programs to improve the capacity of media professionals, in order to employ case studies, news coverage and "success stories" to promote the rights of Persons with Disabilities and highlight the environmental and attitudinal barriers they face.
3. Develop a media guidebook that includes the correct terminology based on the rights approach and combating discrimination, as well as the environmental accessibility and reasonable accommodation necessary to guarantee Persons with Disabilities access to information, according to the media medium and the type of disability.
4. Devise and conduct programs to develop the capacities of Persons with Disabilities and DPOs to communicate with the media and engage in advocacy and lobbying through it, including the use of social media for this purpose.

## **Articles (9):**

### **Accessibility**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Jordan does not seem to lack the necessary legislative frameworks for the implementation of its commitments to rehabilitating the environment in the comprehensive sense, as provided in Article (9) of CRPD. Law No. 31/2007, in Article 4, paragraph (e), outlined measures and provisions to render accessible all buildings and facilities that are built after the Law was passed, and modify existing buildings as much as possible, as well as make emergency facilities accessible as well. The Law also outlined in the same paragraph the need to ensure accessibility in transportation, information and communication means, so as to achieve equality and equal opportunities for Persons with Disabilities (171). The National Strategy in its two phases emphasized and separated these provisions in the section on "Environmental Facilities and Means of Access" (172).

The provisions of Building Code Requirements (173) constitute a "national constitution" for environmental habilitation and accessibility, in terms of providing for the applicable standards and the agencies responsible for implementation and follow up on the ground. Despite the fact that this "Code" has been issued with the same status as laws (which means that it is binding upon publication in the Official Gazette), it has not yet entered into actual application as asserted by executive bodies responsible for monitoring the implementation of the "Code". In addition, studies and research conducted in this regard, not to mention the reality of daily life, all point to an absence of forms of environmental accessibility standards and other shortcomings in this area, which have now extended over more than 18 years since the «Code's" publication.

In an interview conducted by the report team with Engineer Rana Haddadin, director of the «Special Needs Unit» at the Greater Amman Municipality (GAM), which is concerned with monitoring the implementation of the "Code" with others, she confirmed that the construction «Code» for rehabilitating and modifying the environment for Persons with Disabilities remains inactive and not applied on the ground, due to poor coordination between the relevant authorities especially GAM, the Ministry of Public Works, the Engineers Association and the Higher Council (174).

In the area of transportation, it should be noted that the strategy of the Ministry of Transportation refers to the commitment of the latter to provide transportation means that are equipped for Persons with Disabilities (175). This addition to the contents of the National Strategy and Law No. 31/2007 confirms the commitment of the executive bodies to provide public transportation that is equipped for Persons with Disabilities as well. Up until the time of this report's publication, the public transportation sector is still not accessible to Persons with Disabilities, which puts them in an unequal position with others, and burdens them with obstacles to their mobility, hindering their constitutional right in this area.

## ***Practices***

According to GAM statistics, the percentage of streets, parks, hotels, buildings and facilities that are accessible do not exceed at best 6%, while the number of streets partially equipped are no more than 19 streets, out of thousands of streets that fall under GAM (176).

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172- <http://www.hcd.gov.jo/str17.htm>

173- "Building Code Requirements", issued pursuant to the provisions of the Jordanian National Building Law No. 7/1993, and the decision of the Jordanian National Construction Board No. 1/1992, the Council of Ministers Decision No. 3989 /1993, published in the Official Gazette No. 3887 of that year

174- Interview with Engineer Rana Haddadin, director of the «Special Needs Unit» at Greater Amman Municipality December 4, 2010 <http://www.ltrc.gov.jo/LinkClick.aspx?fileticket=sjoAdZEjvPk%3d&tabid=190&language=ar-JO>

175- <http://www.ltrc.gov.jo/LinkClick.aspx?fileticket=sjoAdZEjvPk%3d&tabid=190&language=ar-JO>

176- [http://www.alarabalyawm.net/print.php?news\\_id=194204](http://www.alarabalyawm.net/print.php?news_id=194204)

The previously mentioned field study by the "North-South Dialogue and Development Center" on access for Persons with Disabilities shows that there is a shortage and in some cases an absence of access and environmental accessibility in the education and health sectors, especially in remote areas and the various Governorates.

Field visits carried out by the report team to many of the governorates, as well as what was expressed by Persons with Disabilities themselves with regard to personal experiences during the consultative meetings, reveal a severe shortage amounting to a total absence in some areas of environmental accessibility in health, educational and cultural facilities, as well as with roads and transportation.

On the other hand, the TAKAFO' campaign to promote political participation, launched by a group of activists with disabilities to ensure secrecy and independence for Persons with Disabilities in the exercise of their right to vote in the 2010 parliamentary elections, monitored a large number of public schools that were designated by the Ministry of Interior as polling stations equipped for Persons with Disabilities (177). The campaign noted that most of these schools, announced to be 230 schools out of 6,007 (178), are either unequipped, or only minimally equipped to include a ramp at school entrances, which does not even meet the proper standards (179).

With regard to modes of transportation, the picture does not look much brighter in this regard, as the number of these that are equipped for persons with motor disabilities does not exceed 14 buses out of thousands of buses in the Kingdom, as expressed by GAM's director of the "Special Needs Unit". (180)

A field investigation entitled "Prisoners in Their Wheelchairs" (181) was recently conducted by the Community Media Network as part of a series of "Documentaries on Human Rights". As part of the investigation, interviews with persons with motor disabilities confirmed that they face real discrimination in the field of transportation with a lack of accessibility and negative attitudes by workers that refuse to transport Persons with Disabilities, arguing that this would burden the driver and take additional time. This has forced many Persons with Disabilities, especially wheelchair users, to hire a taxi at a high cost to transport them, with one of the interviewees noting that he pays approximately a third of his monthly income to the taxi driver that he has contracted, while others pay extra fares so taxi drivers that agree to transport them so that they assist with putting the wheelchair in the trunk.

Perhaps the most critical finding in this investigative report is that many Persons with Disabilities lost jobs and opportunities to participate entraining courses, habilitation programs, and various activities and events, as a result of their inability to reach destinations in time due to the lack of accessible means of public transportation, or the taxi drivers' refusal to provide service to them.

Another important factor in this area is the way that executive bodies deal with issues of environmental accessibility, namely, the narrow perspective they adopt when confining the issue to wheelchair users only. To many governmental and non-governmental organizations accessibility is limited to installing ramps and modifying toilets, without considering other forms of accessibility as outlined under CRPD, Law No. 31/2007, the National Strategy or the "Building Code Requirements" such as sign language and Braille, floor and wall markings, and others. This narrow perspective is confirmed when looking at

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177- <http://www.takafo.org>

178- <http://www.moe.gov.jo/MenuDetails.aspx?MenuID=29>

179- <http://www.takafo.org> [http://docs.google.com/document/d/1mRjlsQFn9z6ijy3UcAmTy2Vzui\\_OVcoJlyjlv1k8LM/edit?hl=en\\_US&pli=1#](http://docs.google.com/document/d/1mRjlsQFn9z6ijy3UcAmTy2Vzui_OVcoJlyjlv1k8LM/edit?hl=en_US&pli=1#)

180- Interview with Engineer Rana Haddadin, director of the "Special Needs Unit" at Greater Amman Municipality December 4, 2010

181- <http://ar.ammannet.net/documentary/?p=48&page=1>

schools that are considered by the Ministry of Education to be accessible to Persons with Disabilities, as well as the hotels, restaurants and tourist facilities that are classified as suited for Persons with Disabilities, as these are only fitted with a ramp, and at best a toilet for wheelchair users.

The sanctions and measures for violating legal and administrative provisions for environmental accessibility and access are outlined in Law 31, in Article IV, paragraph (e) clause (3), as "not granting licenses to any party that does not abide by the accessibility standards set forth in the National Building Code". In the same direction, Article 13 of the National Building Council Law imposed a penalty of no less than JD 100 and no more than JD 3,000, on any entity that fails to adhere to the building "codes" criteria under the law (182).

These measures seem insufficient to even make the offense an exception, and to confirm the building "Code" as the rule, since statistics point out to a low number of accessible buildings and facilities at various levels and show that the constructed facilities are not made accessible to Persons with Disabilities from the onset. This explains why the process of making any public or private building or facility accessible is seen as a worthwhile news story that is recounted by newspapers, news agencies and interviews alike (183).

In the context of initiatives and efforts by some groups to promote the concept of environmental accessibility and applying related standards, as contained in national and international texts, it should be noted that the Higher Council recently finalized a bilateral agreement with GAM to activate the application of the national construction "Code". (184)

In the same vein, the Higher Council created a special section within its administrative structure that is specialized in environmental accessibility to follow up on the implementation of the construction "Code" with the relevant authorities and to coordinate efforts in this regard.

That said, a review of the Higher Council's annual reports do not show any tangible progress in this area up until now, with the exception of some bilateral agreements with vocational habilitation centers and the Ministry of Education to create a limited number of habilitation centers and public schools (11 schools), in addition to the formation of a joint coordinating committee between the Higher Council and the Public Security Directorate in order to render some of the prisons accessible to Persons with Disabilities. Until the time of the publication of this report, none of these agreements had been implemented yet (185).

When looking at the issue of timeframes for achieving environmental accessibility in buildings as well as public and private facilities, it is noted that Law No. 31/2007 did not provide any timeframe for implementing the provisions related to accessibility as provided for in Article (4), paragraph (e). However, the National Strategy in Phase I designated a timeframe to start activities in this area, including training sessions for relevant bodies, awareness courses and coordinating efforts to implement the national construction «Code» and others, but without defining a timeline for completion.

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182- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1993&no=7](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1993&no=7)

183- <http://www.alghad.com/index.php/article/470283.html>

184- Interview with Engineer Rana Haddadin, director of the «Special Needs Unit» at Greater Amman Municipality December 4, 2010

185- <http://hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

It is noted that the National Strategy indicated a start date for most of these activities, but failed to provide a clear statement on dates for delivery and completion (186). In any case, the review of the Higher Council's annual reports indicate that only few of the programs and activities referred to in the "Communication and Environmental Facilities" section have been realized to date (187).

Perhaps the narrow perspective on environmental accessibility, described above also explains a weakness in environmental accessibility in other areas like modern technology and the use of the Internet by persons with various disabilities. It should be noted in this regard that initiatives carried out by some parties involved providing computers and screen readers for blind university students, as is the case with Higher Council initiative that distributed over 130 computers and screen readers for blind students at Jordanian universities in 2009 (188).

While recognizing such positive initiatives, these remain limited in terms of quantity and type, and they are not systematic and occur randomly on a welfare basis. Moreover, they happen in the context of celebrations because they occur so rarely, not to mention the fact that these initiatives are not concerned with modifying technical aspects of accessibility for other persons with physical, intellectual and hearing disabilities.

In addition to the lack of computers that are accessible to persons with physical disabilities in the upper limbs, for example, it is noted that the websites of the Higher Council and the Ministry of Social Development - which contain the bulk of information relating to Persons with Disabilities and their issues - are not accessible for the use of persons with various disabilities (<http://www.hcd.gov.jo/index.htm>, <http://www.mosd.gov.jo>) which is also the case with sites of ministries and agencies, scientific institutes, universities and public libraries (<http://www.ammancity.gov.jo/ar/gam/index.asp>, <http://www.ammancity.gov.jo/ar/services/libraries.asp>).

This is confirmed in a specialized study by a group of academic specialists in the field of information technology at Yarmouk University, entitled "Towards a More Accessible E-government in Jordan: an Evaluation Study with Users who are Visually Impaired and Web Designers" (189), which indicated that websites and their contents in Jordan including sites related to universities, public libraries and the Higher Council and government bodies, lack in the great majority internationally adopted modified standards, which constitutes a real obstacle to Persons with Disabilities in general, and persons with visual disabilities in particular, in accessing information and electronic services that are available to all.

According to the same study, persons with intellectual disabilities, persons with hearing disabilities, and the elderly face similar difficulties in accessing the websites, as accessibility measures are completely non-existent for them. The results of their questionnaire on this shows that 52% believe that there are severe weaknesses in environmental accessibility at different levels and in most facilities and services.

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186- <http://www.hcd.gov.jo/str17cell.htm>

187- Annual Report of the Higher Council 2010, p. 11 <http://hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

188- <http://www.hcd.gov.jo/arch19.htm>

189- Unpublished study entitled "Towards a More Accessible E-government in Jordan" Iyad AbuDosh, Ashraf Bani Mohammad, Imad Ali.



## ***Recommendations for Article (9): Accessibility***

### ***At the policy and legislation level:***

1. Amend legislation related to the rights of Persons with Disabilities and those concerning the organization of construction and licensing, so that deterrents and effective financial and administrative penalties are included concerning those that violate the provisions of the National Building Code, and to impose penalties on anyone who refuses to provide transportation for individuals on the basis of disability.
2. Include environmental accessibility issues in the strategies, plans and programs of the Transportation Authority, Ministry of Public Works, Building Council, GAM, Engineers Association, Taxi Drivers' Union, governorates and municipalities.
3. Incorporate the principles of human rights and the rights of Persons with Disabilities and the concept of environmental accessibility, its standards and implementation mechanisms, as well as its social and economic impact, in the educational curricula of the colleges of engineering and institutes, and community colleges that teach similar or related disciplines.
4. Promote the concept of environmental accessibility in a broad sense, through the design of training and awareness programs targeting a large number of bodies, ministries and civil society institutions and the private sector, including the Taxi Drivers' Union.

### ***At the practical level:***

1. Conduct feasibility studies on the topic of environmental accessibility to shed light on its true cost and benefits and economic returns resulting from the accessibility of different environments, especially in the social services sector and the private sector.
2. Establish specialized local bodies within the governorates and municipalities and local councils that would be responsible for monitoring the implementation of environmental accessibility standards, as contained in the National Building Code, at the level of village, city and county, with effective participation by Persons with Disabilities and DPOs in these bodies, and the follow-up committees or working groups that may stem out of these.
3. Adopt technical and technological accessibility standards for persons with visual, hearing, intellectual, psychological and physical disabilities both with regard to the modification of computer and communication hardware, and other electronic devices, or in terms of website design for ministries, institutions and governmental and non-governmental bodies and organizations, universities and scientific institutes, libraries, and companies, in close collaboration and consultation with Persons with Disabilities and DPOs.
4. Establish a national monitoring mechanism for the various concerned authorities to ensure that licenses are not granted to any building without verifying that the design and engineering drawings include all forms of accessibility in accordance with the standards and controls set forth in the National Building Code, as well as proper and accurate follow up on the implementation and application of the standards during the construction phase. Modifying facilities and existing buildings should be guaranteed within the specified timeframe and according to the criteria adopted, and those conducting the monitoring should have some judicial powers, which enable them to adjust irregularities, document and sign them, as well as develop an action plan for the employment of the funds obtained through the penalties to fix irregularities and render facilities that are in violation accessible.



## **Articles (10):**

### **Right to Life**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Legislative texts in Jordan do not seem to include provisions on the right to life of Persons with Disabilities, other than those contained in the Penal Code which criminalizes any act that would prejudice the right to life for all, and in accordance with the provisions of Article 326 and what follows in the Jordanian Penal Code No. 16/1960 and its amendments (190).

The text of Law No. 31/2007 (191) and the National Strategy (192) did not include provisions or special measures concerning the right to life of Persons with Disabilities. This legislative vacuum might be due to lack of clarity of vision on the part of the Jordanian legislator in understanding disability as being a possible basis for discrimination, torture and attack on life. What demonstrates the accuracy of this analysis is the amendment of the Jordanian legislator to Article 330 of the Penal Code, Law No. 12/2010, which made the act of physical abuse leading to death carry a severe punishment, if the victim is under 15 years of age, or a woman regardless of her age, where punishment in this case, carries a prison sentence of no less than 12 years (193). The provisions of this amended law did not have any reference in the event of such acts affecting a person because of or on the basis of disability.

With regard to the protection of the right to life of the fetus that proves to have a disability through pre-birth tests, the Jordanian legislator did not address this issue with special provisions that respond to the reality of the case in which the right of life of embryos is violated on the basis of disability.

The act of abortion which is punishable and addressed by articles (321-325) of the above-mentioned Jordanian Penal Code did not address the act of abortion committed on the basis of proof of disability of the fetus. It is interesting in this regard that the legislator noted in Article (324) of the same law, the act of aborting the fetus for the purpose of preserving "honor" as a mitigating circumstance for punishment of those who commit the act, whether the perpetrator is the pregnant woman herself or any other person. This indicates a dangerous philosophy of prioritizing "honor" considerations, along with associated unjust social customs and traditions, over the interest of the fetus and the right to life.

As disability is still seen as a source of stigma and shame within society that must be eliminated and hidden, the fragility of the scope of criminal protection provided by such provisions to the embryos with disabilities and pregnant women alike seems clear, all as detailed in Article (17) of this report.

## ***Practices***

The case studies contained in Articles (6), (15) and (16) of this report and what was reported by some investigative reports covering how some women abort their pregnancy if disability is proved to exist or is a potential occurrence in their fetuses (194) clearly indicate the reality of discrimination faced by Persons with Disabilities, not only after birth and acquiring the status of a person, in accordance with the provisions of the law, but even before being born. This underscores the urgent need to address this issue effectively, to ensure solid legal protection to persons and embryos with disabilities, guaranteeing them the right to fully enjoy life, on an equal basis with others, and in accordance with the provisions of CRPD and what is required by international law.

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190- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

191- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

192- National Strategy, Phase I. <http://www.hcd.gov.jo/ma7.htm> National Strategy, Phase II, <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

193- [http://www.lob.gov.jo/ui/laws/modifyarticle\\_descr.jsp?no=16&year=1960&article\\_no=330&article\\_no\\_s=0](http://www.lob.gov.jo/ui/laws/modifyarticle_descr.jsp?no=16&year=1960&article_no=330&article_no_s=0)

194- <http://www.alghad.com/index.php/article/342396.html>

As the text of Article (10) of CRPD was clear in delineating the commitment of states that are party to the Convention, not only to protect the right to life but to also ensure the “effective” enjoyment of this right, this entails a clear commitment by the State to provide a safe environment free of obstacles and barriers that may constitute a danger to the lives of Persons with Disabilities, or may detract from the degree and level of enjoyment of this right on an equal basis with others.

In light of the weaknesses in environmental accessibility detailed in Articles (9) and (20) of this report, and what some unofficial statistics indicate as to the death of a significant number of Persons with Disabilities as a result of traffic accidents, and falling in holes associated with construction and maintenance sites at various facilities, as reported by the president of the Friendship Society for the Blind in Amman on more than one occasion (195), we clearly see the imminent daily dangers to Persons with Disabilities and their physical and mental safety, as well as their right to life.

### ***Recommendations for Article (10): Right to Life***

#### ***At the policy and legislation level:***

1. Review legislative texts in the Penal Code and amend articles related to crimes of violence to life, so that any practice or act affecting the right to life on the basis or because of disability is considered an aggravating circumstance, requiring the punishment of the perpetrator through a severe penalty and appropriate compensation for the damage caused.
2. Review and amend the provisions of the Penal Code articles dealing with the crimes of abortion, so that aborting the fetus on the basis of disability, whether the perpetrator was the pregnant woman or any other person, is deemed an aggravating circumstance requiring the penalty to severely punish the perpetrator.
3. Eliminate the item contained in Article (324) of the Penal Code which reduces the punishment for abortion to preserve “honor”.

#### ***At the practical level:***

1. Design and implement awareness programs to promote a culture of acceptance of disability as part of human diversity and humanity.
2. Promote detection and early diagnosis programs of pre-delivery and genetic therapy, which provide health treatment services to embryos and ensures the parents’ peace of mind.
3. Apply safety standards and environmental accessibility measures to roads, buildings, and construction sites in various facilities, so as to provide a safe environment to maintain the rights of Persons with Disabilities to life and physical safety.

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195- Interview with Ahmad Lozi, chairman of Friendship Society for the Blind, Amman, January, 22, 2011; Panel discussion with 250 activists and representatives of associations of persons with disabilities and service providers on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

**Articles (11):**

## **Situations of Risk and Humanitarian Emergencies**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The Civil Defense Law No. 18/1999 is the main legal reference for emergency and crisis management at the national level <sup>(196)</sup>. The Law demonstrated in Article (4) the functions of the Higher Council of Civil Defense, as the entity authorized to manage crises and emergencies and draw up relevant policy and plans.

Article (13) of the same Law details the tasks of rescue, first aid and prevention entrusted to the General Directorate of Civil Defense <sup>(197)</sup>. It is noticed that this Law and the regulations and instructions issued pursuant to it are devoid of any reference to reasonable accommodation or accessibility when aiding or rescuing Persons with Disabilities, which makes them, no doubt, more vulnerable in the event of an emergency or disaster.

The National Building Code also did not include special standards for emergency and first aid for Persons with Disabilities, reflecting a shortcoming in this "Code" that is viewed by some as the "Constitution" of environmental accessibility for Persons with Disabilities <sup>(198)</sup>.

When it comes to civil defense, the National Building Code or regulations and instructions relating to fire alarms, evacuation systems, and emergency exits, did not include reasonable accommodation and environment accessibility measures for Persons with Disabilities, such as light and audio signals for emergency exits. Furthermore, there are no clear instructions on special warning lights to alert persons with hearing disabilities in the event of alarm bells or signals at a given location <sup>(199)</sup>.

The National Strategy in both Phases I and II does not include any reference to emergency services and rescue and accessibility in this area <sup>(200)</sup>. Law No. 31/2007 contains an inadequate mention of emergency services in Article (4), paragraph (e) clause (4), within the measures of the "environmental facilities", which stipulated that relevant authorities should provide "accessibility for Persons with Disabilities to technology and information systems including the Internet and various audio-visual and print media, as well as emergency services, including securing interpreters for sign language <sup>(201)</sup>".

Regarding the status of refugees with disabilities and the services provided to them, it should be noted that Jordan is not yet party nor has it signed the Convention on the Status of Refugees adopted by the United Nations in 1951 <sup>(202)</sup>, in spite of the influx of refugees from neighboring countries to Jordan in cases of emergency and armed conflict, by virtue of its geographical location, and as a transit point between Arab countries in Asia and North Africa.

Thousands of refugees came to Jordan from the West Bank and Gaza Strip after the Israeli occupation of Palestinian lands, and wars and armed conflicts in Iraq made thousands of refugees <sup>(203)</sup> escape to Jordan in search of a safe haven.

Failure to join this Convention creates a significant legislative vacuum, and makes the rights of refugees and their situation hostage to government estimates, orientation and interests, as well the political and economic gains they seek to achieve, which is usually reflected in the bilateral agreements they have with international bodies and institutions for supporting refugees and protecting their rights <sup>(204)</sup>.

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196- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=18&year=1999](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=18&year=1999)

197- <http://www.cdd.gov.jo>

198- The provisions of the "Special Building Code Requirements" issued pursuant to the provisions of the Jordanian National Building Law No. 7/1993, in force since 1993, as published in the Official Gazette No. 3887 in that year

199- [http://www.cdd.gov.jo/pages.php?menu\\_id=445](http://www.cdd.gov.jo/pages.php?menu_id=445)

200- <http://www.hcd.gov.jo/ma7.htm>

201- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

202- <http://www.unhcr.org/pages/49da0e466.html>

203- <http://www.unhcr.org/cgi-bin/txis/vtx/page?page=49e486566>

204- <http://www.unhcr.org/cgi-bin/txis/vtx/page?page=49e486566>

Moreover, none of the strategies, plans or national laws provided any special provisions on the issue of asylum and refugee rights, and what services are provided to them, including refugees with disabilities, which makes the issues of environmental accessibility and reasonable accommodation completely absent in refugee camps and services in general. These elements are perceived from the exclusionary discriminative perspective as secondary to other priorities dictated by a state of emergency and the need to absorb incoming refugees. This confirms the absence of disability issues from policies, programs and laws on emergencies, disasters and rescue, as previously described.

## ***Practices***

The absence of environmental accessibility and reasonable accommodation in various forms in emergency services is the main reason for the decline of these services for Persons with Disabilities and exposing them to grave danger whenever they are in an emergency situation, requiring prompt intervention of first aid or evacuation.

In the interview conducted by the report team with the Directorate of Civil Defense, referred to above, the Directorate notes that paramedics and rescuers working with persons with hearing disabilities in situations of emergencies regard them as unconscious persons in the case that it is impossible to communicate with them, for their own safety (205), which means that the deaf person will not be able to communicate with medics or rescuers, and to express what happened or what he actually needs.

This leaves diagnosis to individual understanding and subjective estimates which are not necessarily accurate. In one of the consultative meetings, a deaf person noted that he had been moved to the emergency department in a hospital, where he was suffering from severe pain and tried to explain what he felt to doctors and nurses, but was ignored and examined and given medication unrelated to the area or source of pain (206). In fact, First Aid training and emergency situations for Persons with Disabilities are not on the agenda of the Directorate of Civil Defense, nor any of the other institutions working in the field of First Aid and emergency services, nor is it part of the Higher Council's policies, programs or activities (207). That said, it should be noted that the Higher Council recently organized a course on First Aid to persons with hearing disabilities (208).

Regardless of such positive initiatives and activities, however, the fact is that topics and services of this magnitude and the risk to Persons with Disabilities are not part of the system of national strategies and plans for emergencies and disasters and the like.

With regard to Palestinian refugees who are in Jordan, the United Nations High Commissioner for Refugees (UNHCR) monitors their conditions and their issues since 1998, upon a memorandum of understanding that was signed with the Jordanian government allowing UNHCR mission to conclude partnership agreements with some local authorities, and implement programs and provide some basic services for refugees (209).

According to an interview conducted by the report team with the UNHCR office in Amman (210), the number of Iraqi refugees registered with UNHCR is 30,000 refugees, 895 of whom have disabilities,

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205- Interview with Col. Samer Majali, head of the Directorate of Emergency, Civil Defense Directorate January 12, 2011

206- Interview with Mr. Mohammad Tawfiq, with a hearing disability, about the absence of reasonable accommodation in hospitals July 16, 2011

207- <http://hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

208- <http://www.hcd.gov.jo/index.htm>

209- <http://www.unhcr.org/refworld/type,MULTILATERALTREATY,,JOR,3ae6b3a124,0.html> <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486566>

210- Interview with Nadia Khalifa, an employee of the Social Services Department, the High Commissioner for Refugees (UNHCR), Jordan January 24, 2011

the majority of which are physical disabilities. The same interview shows that the unstable legal situation for these refugees puts them in a state of exclusion and marginalization, distancing them from specialized services provided to non-refugee Persons with Disabilities.

In an attempt to facilitate the access of refugees with intellectual disabilities to the services available to others, the UNHCR office in Jordan is seeking to conclude an agreement with the Ministry of Social Development to allow children with intellectual disabilities to attend Al-Manar Educational Centers, which provide educational services and welfare for children with minor and moderate intellectual disabilities. In the same direction, UNHCR is seeking to conclude a Memorandum of Understanding with the Center for Vocational Rehabilitation to ensure training opportunities for refugees with physical and hearing disabilities.

The UNHCR office provides very modest in-kind assistance to refugees with disabilities which is limited to certain materials such as wheelchairs, crutches, in addition to monthly financial assistance amounting to JD110, a minimal amount compared to the high inflation rate and the cost of living in Jordan, where the estimated absolute poverty line stands at JD 392 (211).

Whatever the case is with these efforts and services undertaken by UNHCR, they remain mere initiatives and are not part of a strategic vision and a systematic work program that guarantees refugees from various countries and regions the minimum rights set forth in international conventions on human rights, including the Convention on the Status of Refugees, referred to above.

As for Palestinian refugees in Jordan, they are distributed in the 10 camps run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) (212), which offer a range of limited health, education and community services. The absence of environmental accessibility is fully noted in these camps, in terms of public facilities and services available, according to the results of field visits made by the report team to some of these camps, and an interview conducted with UNRWA (213).

In the Palestinian refugee camps in Jordan, UNRWA is implementing a series of health, education, and habilitation programs, including programs for social habilitation by offering limited services for Persons with Disabilities, which are mostly centered on natural therapy services, early detection of disabilities and special education, within the limits of available human resources, knowledge and funds (214).

Case studies and interviews conducted by the report team with some of the Palestinian refugees with disabilities reflect the extent of the difficulties, exclusion and discrimination against them on the basis of disability, nationality and status of asylum. One person with visual disabilities was unable to complete his studies, graduate and work in Jordan, where he was actually born and raised, which caused him to leave the country and work in another Arab country, although both his mother and wife are Jordanian (215). A similar situation occurred with a woman with physical disability that could not find work due to refugee status, disability and sex (216), as was also the case for a brother and sister

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111- Interview with Nadia Khalifa, an employee of the Social Services Department, the High Commissioner for Refugees (UNHCR), Jordan January 24, 2011

112- <http://www.unrwa.org>

113- Interview with Mrs. Manar Hussein, Director of Disability Programs, UNRWA, Amman, Jordan, October 6, 2010

114- Interview with Ikram Marashdeh, Director of the Center for Community-based Rehabilitation of Disabled Persons in the camp of Irbid; UNRWA, September 5, 2011 <http://www.unrwa.org/atemplate.php?id=116>

115- Case study, Yasser El-Shafei, about the circumstances of Gaza refugees with disabilities who do not hold Jordanian citizenship, January 11, 2011

116- The case of Yasmin presented at the panel discussion, with 250 activists and representatives of DPOs and service providers, on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

with visual disabilities who faced great obstacles in getting an education and finding a job as a result of both refugee status and disability (217).

The discrimination and exclusion faced by Palestinian refugees with disabilities is not limited to education and work, but extends to the areas of health, habilitation and rehabilitation (218) , where the refugees in general and refugees from the Gaza Strip and the West Bank in particular, are undocumented and have temporary passports. By virtue of their unresolved and unfair legal status, they do not have access to services available to all. Moreover, they are not able to take advantage of programs and services by UNHCR, which only monitors the situation of non-Palestinians refugees in Jordan (219).

The only option for these individuals is to resort to UNRWA, which is actually experiencing technical and financial difficulties and challenges that hinder its work and adversely affects the quality and quantity of services provided to Palestinian residents of refugee camps in general, and Persons with Disabilities, in particular (220).

### ***Recommendations for Article (11): Situations of Risk and Humanitarian Emergencies***

#### ***At the policy and legislation level:***

1. Include special measures on emergency rescue and evacuation of Persons with Disabilities, in the strategies, plans and programs specialized in emergency and disaster issued by the Directorate of Civil Defense and the Armed Forces and others, taking into account international standards of accessibility and reasonable accommodation.
2. Integrate in various building codes issued by the Ministry of Works, the Engineers Association, GAM and the Directorate of Civil Defense the standards that ensure maximum accessibility and safety for Persons with Disabilities.
3. Insist that the Jordanian Government ratifies the Convention on the Status of Refugees and publishes it in the Official Gazette.
4. Review the situation of Palestinian refugees who are undocumented and hold temporary passports, in order to achieve equality and equal opportunities for them to access services available to all.

#### ***At the practical level:***

1. Develop a guidebook on technical and human resource requirements in environmental accessibility and reasonable accommodation and the overall design of emergency and rescue services, publications, and awareness campaigns, with the participation and close consultation with Persons with Disabilities and DPOs.
2. Design and implement systematic training programs for Persons with Disabilities, including children and families, on First Aid methods rescue and how to act in emergencies and disasters.
3. Organize specialized training programs for ambulance and rescue crews on sign language and various forms of reasonable accommodation for effective communication with Persons with Disabilities in cases of emergency rescue and evacuation.
4. Engage in lobbying and advocacy campaigns to urge the government and national and international specialized bodies to review the situation of refugees in Jordan, especially those with disabilities, and ensuring their adequate access to basic services available to all, on an equal basis with others.

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117- Case study of AbdulAziz and Asma Jerwan, two persons with visual disability that do not hold Jordanian citizenship, September 27, 2010

118- Case study, Murad Abu Mandil, about the lack of access of refugees with disabilities, health insurance in the Ministry of Health, September 6, 2010

119- Interview with Nadia Khalifa, an employee of the Social Services Department, the High Commissioner for Refugees (UNHCR), Jordan January 24, 2011

<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486566>

120- Interview with Mrs. Manar Hussein, Director of Disability Programs, UNRWA, Amman, Jordan, October 6, 2010



## **Articles (12):**

# **Equal Recognition before the Law**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Even though Jordan was not among the states that had reservations or an alternative interpretation for Article (12) of CRPD, in particular paragraph (2) of the Article on legal capacity, the system of national legislation in Jordan applies serious patterns of discrimination towards Persons with Disabilities in their ability to enjoy and exercise full legal capacity on an equal basis with others. This in turn has led in some cases to restricting and even excluding Persons with Disabilities from fully exercising their economic, political and civil rights.

If we want to clarify the reasons behind the Jordanian legislator's adopted approach, Article (44) of the Civil Law No. 43/1976 <sup>(221)</sup>, and Article 204 of the new Personal Status Law No. 36/2010 <sup>(222)</sup>, state that "exercising civil rights excludes those who are undiscerning because of age, dementia, or insanity".

These articles, which set the general rule in dealing with Persons with Disabilities in general and persons with intellectual and psychosocial disabilities, or what law refers to as "mental disabilities," in particular, encompass the highest degree of discrimination and exclusion which are the result of unfair generalizations stemming from stereotyping and misconceptions, based on failure to recognize the legal identity of persons with psychosocial and intellectual disabilities.

How can one then explain and justify the legislator when he states that "these persons are not eligible to exercise civil rights", reducing their status to that of young children under guardianship and parental care as illustrated in legislation and repeated in more than one area in various laws.

Therefore, the provisions of Articles (128) of the Civil Law and Article (212) of the Personal Status Law referred to earlier note: "Inherently insane persons are like undiscerning children who are below seven years of age while those who are demented are like discerning children who are from 7-15 years of age".

Such an approach in determining legal capacity or depriving people of it, or limiting their access to or exercise of it, is contrary to the provisions of international laws, and violates CRPD's explicit general principles in Article (3) and its purpose Article (1), as well as paragraph (2) of Article (12).

What makes matters more complicated in this regard are unclear definitions by the legislator in the Civil Law and the Personal Status Law referred to earlier with regard to the concept of "insanity, dementia and stultification" and other symptoms of the legal capacity stated under these laws.

Since the criterion adopted in the definitions contained in these laws is not based on clear controls, it fails to take into account the overall concept of disability as an intersection of personal factors and environmental, social and attitudinal barriers where the lack of reasonable accommodation plays a key role in the emergence and continuation of disability.

In Article (206) of the Personal Status Law "Persons with Dementia, Stultification and Gullibility» are defined as: "person with dementia is the one whose feelings are not balanced, with little understanding, unclear speech, and corrupt actions. The Person with Stultification is the one who spends his money in the wrong place, overspends, and loses his money and destroys it by extravagance contrary to what is required by reason and religion. A person with Gullibility is one who does not undertake productive actions and acts foolishly."

Perhaps it is clear that these "definitions" and their use of discriminatory terms that are unacceptable and incompatible with CRPD's spirit, language and texts, also do not provide specific criteria for determining

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221- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=43&year=1976](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=43&year=1976)

222- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2010)

legal capacity. What is meant, for example, by "act foolishly" in the definition for "Person with Gullibility"? What is the standard for "as required by religion and reason" in the definition of "stultification"? For example, is a person who spends money on things not condoned by religion, such as buying or selling the so-called "charitable lottery" or lending and borrowing on interest rates (which are not allowed in religion in accordance with the fatwas issued by the officially authorized Fatwa Department of Jordan (223), considered "stultification" by law and justifies legal detention? If the answer is yes, then how can the law recognize and allow the issuance and sale of "charitable lottery" and approve the business of loans and interest rates and those who spend their money in areas not necessarily in line with the provisions of religion?

In the same vein, what is the measure for "as required by reason"? How can one determine such a standard that relies on purely subjective estimates that vary from one person to another depending on individual culture, values and principles? On the other hand, what are the rules and regulations by which a person with "dementia" is deemed to have "unclear speech and corrupt actions" in the definition above? Do those with speech impairments, for example, fit this definition? What is then the mechanism for an action to be judged as "corrupt"?

Such general undisciplined definitions open the door for the application of individual principles and opinions to the legal capacity of individuals, allowing for potential abuse to restrict or cancel or revoke the legal capacity of persons with various disabilities. This again allows for the discriminatory practice based on the medical, custodial, welfare approach of dealing with Persons with Disabilities as medical cases, not as people who have legal standing of their own with rights to this by appropriate means.

This last point is the key to misunderstanding issue related to the legal capacity of Persons with Disabilities in general, and persons with psychosocial and intellectual disabilities in particular. The legislator, the judiciary, and executive bodies lack knowledge of the multiple and various patterns of the innermost expression of a person's will, which has caused confusion between legal capacity as a basis of recognition of legal standing of individuals, and ways to exercise that capacity through various means of expression. This has prompted the legislature and the judiciary in Jordan to deny persons with psychosocial and intellectual disabilities of their legal capacity, as a general rule with limited exceptions.

Specific forms of discrimination and restrictions of Persons with Disabilities in exercising certain rights and freedoms are a result of the provisions stated in the legal texts mentioned above. Through these any legal actions conducted by Persons with Disabilities are considered either legally invalid or subject to an annulment.

In the field of property and legal action, financial management and contracts, provisions of the Civil Law and Personal Status Law referred to earlier, as well as texts of the Notary Law, have conclusive significance in restricting the freedom of Persons with Disabilities in the exercising of these actions on an equal basis with others, which amounts to a deprivation of the right and the freedoms stemming from it.

The Civil Law in Article (127) and the Personal Status Law in Article (211) note: "the young, insane and demented persons are confined to themselves while Persons with Stultification and Persons with Gullibility are subject to the court's judgment in accordance with the rules and procedures in the law". The legislator, then, confirms the discriminatory philosophy towards persons with psychosocial and intellectual disabilities, by noting that they are incapable of acting in legal proceedings as a standard rule on which the court bases cases involving a person with psychosocial or and intellectual disability.

In a deeper explanation for this legislative philosophy, the legislator reflects the firm intention to restrict and deny Persons with Disabilities the legal capacity to act and to prevent them from concluding contracts and managing their financial and personal affairs. This is noted in Article (128) of the Civil Law and Article (212) of the Personal Status Law that "Persons with Dementia are like undiscerning children while those who suffer from insanity are like discerning children. Moreover, the actions of those who are temporarily insane are rational once his condition passes. A custodian takes charge of the affairs of persons lacking the legal capacity to act".

The restrictive discriminatory philosophy adopted by the Jordanian legislator is not limited to civil rights and the personal status of persons with psychosocial and intellectual disabilities, but also clearly affects persons with other disabilities as is the case in the Notary Law No. 74/1951, which regulates the procedural and practical civil and commercial legal aspects and other actions. In Article (17) of the Law, the highest degree of discrimination and exclusion is exemplified when it comes to persons with psychosocial disabilities, and persons with visual and hearing disabilities who are not competent to testify in any of the transactions, civil, commercial and other as the article states: "...the witnesses need to be sensible adults who know the identity of those at stake, and who are not a blind or mute ... (224)".

### ***Practices***

This fact that Persons with Disabilities cannot serve as witnesses in procedural matters demonstrate the basic violation to their exercising their fundamental rights and freedoms and reinforces the various forms of discrimination they face, which would be clear to even the non-specialized observer, let alone the researcher and expert in the field of human rights.

In the area of the right of access to banking services and credit, the privacy of Persons with Disabilities is violated each time they try to exercise their right to open a bank account, withdraw or deposit funds, since commercial banks in Jordan do not recognize the competence of the person with a visual disability to use and access these services, unless they bring two witnesses each time they want to withdraw or deposit funds for their own account. These two witnesses observe the details of the transaction including information relating to his bank account and its history.

In an interview with officials in the legal department of the Central Bank of Jordan, it was noted that commercial banks are obliged to apply the provisions of the law and in particular the Banking Secrecy Provisions in the Banking Law No. 28 of 2000 (225). At the same time, it was observed that there are no specific instructions issued by the Central Bank for dealing with Persons with Disabilities in banking and credit issues (226). Therefore it is clear that these banks act on their own, based on the provisions of the Notary Law and Civil Law previously referred to.

In another interview conducted by the report team with the officials in the department of banking operations in one of the major commercial banks in Jordan, they explained that what the bank was doing was a precautionary measure, intended "to protect the bank and the person with a disability dealing with the bank." Two people must be present to witness the transaction and testify that the employee properly addressed the person's request, in case of any claim to the contrary (227).

According to the personal experience of the president of one of the associations for persons with hearing disabilities, a staff member of a commercial bank refused to acknowledge the president's signature when he wanted to open a bank account in his name, and took his fingerprints although he could read and write, and forced him to bring along two witnesses whenever he needed to perform

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224- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1951&no=74](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1951&no=74)

225- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2000&no=28](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2000&no=28)

226- Interview with Mr. Ghalib Abbadi, Assistant Executive Director, Central Bank, February 6 2011

227- Interview with the Administration of the Arab Bank, Amman 23/2/2010

a transaction (228). It is obvious that such an approach in dealing with persons with visual or hearing disabilities is a clear violation of their privacy and independence and their ability to enjoy legal capacity on an equal basis with others.

In the same vein, according to the arguments and justifications, most commercial banks do not give Persons with Disabilities the right to access and use the so-called self services that include phone banking, ATM, and internet banking services, claiming that "these services contain pin codes that must be kept by the beneficiary and that must be entered each time they want to use the service, and that persons with visual disabilities are prone to have pin codes exposed to others or stolen (229).

There is no doubt that this stereotypical trend clearly reflects excludes Persons with Disabilities from benefiting from credit services on an equal basis with others and allows for discrimination against them in a systematic unwarranted manner. It also reflects an urgent need to promote and disseminate the concepts of reasonable accommodation and overall design, which CRPD noted in its Article (2), that provides for persons with visual and hearing disabilities convenient access to credit services with total independence and privacy, through audio programs, Braille, and indicative signals in sign language and other forms of accessible services, provided for in CRPD's Article (3) as a requirement for exercising rights and freedoms and for achieving the principles of equality and equal opportunities.

In the area of exercising political rights, it is noted that the laws of successive elections have clearly violated the right of Persons with Disabilities to vote or to run for elections. With regard to exercising the right to vote, article (3) paragraph (c) of the Election Law of Parliament No. 9/2010 notes that "deprived of the right to vote ... 2. Who was indicted ... 4. Who is insane or demented (230)."

This text goes to deprive persons with psychosocial and intellectual disabilities - according to the definition adopted by the Civil Law and the Personal Status Law as detailed by this statement - from exercising their constitutional right to vote and choose their representatives in Parliament, based on prior judgments that do not take into account the will of the people which can be clearly expressed if they are provided with the necessary support to achieve this, according to the "support in decision-making" model, which does not override the will of a person just because others could not identify this well through dominant conventional means.

The legislator in this case, as is the case of other legal transactions, did not find a solution to the lack of familiarity with the varied means of expression of will, but to deny persons with psychosocial and intellectual disabilities the right to enjoy and exercise this right on an equal basis with others. This constitutes a flagrant violation of human rights principles and international law provisions, as well as CRPD's spirit, principles and provisions, particularly those expressed in Article (29) as detailed later in this report.

In the area of the right to run for elections, the behavior of the Jordanian legislator does not seem different in this regard, as article (8) of the Election Law itself notes: "those applying for to be considered candidates for membership in Parliament... should not:...(b) have been indicted and still under indictment ... and (c) should not be insane or demented".

This behavior on the part of the legislator is only an extension of his view of stereotypes unrelated to human rights principles and daily practice. The legislator did not hesitate to deepen the legacy of discrimination and exclusion to Persons with Disabilities in legal texts that are supposed to uphold

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228- Mr. Ali Naf'eh, head of Jordan's Solidarity Association for the Deaf, the consultative meeting of the Central Region, held in Amman on July 16, 2011.

229- Interview with the Administration of the Arab Bank, Amman February 23, 2010

230- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2010&no=9](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2010&no=9)

justice, fairness and equality between all people. However, under these provisions, a group of citizens were deprived of an integral constitutional right, and constitutional principles were themselves violated, before violating the rights of a critical mass of citizens.

It should be noted that there is significant progress at the procedural level with regards to the practice of Persons with Disabilities of their right to vote, as the Ministry of Interior responded to the calls of Persons with Disabilities and DPOs in the Lower House election of 2010, and acknowledged their right to vote aided by a person they choose freely and independently. In addition, the Ministry, in cooperation with the relevant authorities, made a number of polling stations accessible to voters with physical and hearing disabilities (see Article (29) of this report) (231).

With regard to the model of supporting decision-making, it is clear from the review of the legislation, that Jordan does not recognize this model and does not mention it. Provisions included in legislation are related to custodianship and guardianship, based on previous assumptions that Persons with Disabilities lack the legal capacity or have a diminished form of this capacity, with other cases being the exception to that.

Even when the legislator wanted to adopt a form of legal assistance to Persons with Disabilities, they proved unsuccessful both in terms of wording and in terms of content. As stated in the previously mentioned Article (132) of the Civil Law and Article (215) of the Personal Status Law, "if the person is deaf and mute, or deaf and blind, or mute and blind, and could thus not express his will, the court may appoint a guardian to assist in proceedings required to fulfilling his interests".

In terms of language, we note the inaccuracy of terms used to describe Persons with Disabilities and the fact that they are not in sync with the rights-based approach, the principles of non-discrimination, respect for differences and acceptance of disability as part of human diversity and humanity. In terms of content, the text speaks of a "guardian" and not of an "assistant" to aid in interpretation to the Court and the person. There is a great difference between the two, with the former's mission exceeding mere facilitation and communication between the person and the Court, to the running of a person's affairs and taking decisions on their behalf without consulting or considering the person's true will.

With regard to programs and awareness activities on the right of Persons with Disabilities to enjoy and exercise legal capacity on an equal basis with others, it is noted that more awareness is needed on this issue and its vision, with a need to also simplify related technical and legal intricacies.

Since the endorsement of CRPD in 2008, only one simple activity was organized by the National Center for Human Rights (NCHR) on this issue (232). In fact, the issue of legal capacity of Persons with Disabilities requires planned and organized programs to highlight its legal and technical aspects as well as the legal and practical impact of its full recognition or denial.

In summary, the Jordanian legislator adopts the original basis of denying Persons with Disabilities their right to enjoy legal capacity and to exercise it on an equal basis with others, based on models and negative stereotypes about Persons with Disabilities and as a result of either not understanding aspects of the willingness of the person in some cases. This can be due to the lack of reasonable accommodation, or not recognizing that will and relying on the legal and practical means that a person resorts to when engaging in or refraining from a certain action. This approach by the Jordanian legislator does not reflect what is declared as a general trend for the promotion of human rights in general and the rights of Persons with Disabilities in particular.

**Recommendations for Article (12): Equal Recognition before the Law**

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231- <http://www.takafo.org>

232- <http://www.alghad.com/index.php/article/380850.html>



### ***At the policy and legislation level:***

1. Review the system of national legislation and amend provisions on legal capacity, as to achieve full recognition of Persons with Disabilities before the law on an equal basis with others without discrimination on the basis of disability.
2. Amend the legislative provisions related to legal capacity restrictions in the Civil Law and the Personal Status Law so as to prevent the use of disability to diminish or deny the person's legal capacity and their ability to enjoy and exercise that capacity.
3. Modify provisions of custodianship and guardianship to achieve individual autonomy and privacy for Persons with Disabilities, and adopt the "support in decision-making" model" contained in Article (12) of CRPD so as no one can replace a person with a disability in making decisions of any kind, but instead help given to Persons with Disabilities to enable them to make their own decisions, through explaining the surrounding circumstances around and the available options and the consequences of each. In addition to providing reasonable accommodation, this would allow a person to express their innermost will.
4. Cancel provisions contained in Article (17) of the Notary Law that does not recognize persons with psychosocial and intellectual disabilities as well as persons with visual and hearing disabilities as witnesses in any of the civil, commercial, and personal status transactions, and others.
5. Revise the provision in Article (75) of the Constitution, and abolish the paragraphs in articles (3) and (8) of the Law on Election to parliament, which completely deny persons with psychosocial and intellectual disabilities the right to vote and run, and review the terms and conditions of legal capacity to exercise political rights, based on the overall concept of disability as a variable state depending on the nature of environmental and attitudinal constraints, and the availability of reasonable accommodation and environmental accessibility and design, as detailed in Article (2) and others of CRPD.

### ***At the practical level:***

1. Review and amend rules and regulations and instructions of the Central Bank and commercial banks, and eliminate all conditions imposed on a Person with a Disability to bring in a witness or more when conducting various credit transactions, and acknowledge, on an equal basis with others, a signature or a stamp or imprint of a Person with a Disability in an undiminished manner that is not supported or approved by any other party.
2. Realize the principles of reasonable accommodation and accessibility and design in various credit facilities and banks, providing easy access and full enjoyment of Persons with Disabilities of all services, in order to achieve respect for autonomy and individual privacy, in accordance with the general principles of CRPD including the principles of non-discrimination, equality and equal opportunities.
3. Train the legislative, judicial and executive staff in the field of human rights and the rights of Persons with Disabilities in particular, and establish and apply the "support in decision-making" model, and promote the right of Persons with Disabilities to exercise their legal capacity in full, with the provision of modified forms of legal and judicial assistance, where necessary, without any form of restriction or abridgement of the person's freedom, privacy and individual autonomy, and respect for free and informed consent in decisions.
4. Design and implement programs to raise awareness about the rights of Persons with Disabilities and their right to enjoy and exercise legal capacity on an equal basis with others, through coordination

between the various relevant bodies and the active involvement and participation of Persons with Disabilities and DPOs in the development and implementation of these programs.

5. Insure accessibility in the environmental, attitudinal and social conditions in order to encourage persons with psychosocial and intellectual disabilities to appear and participate in public life and to form organizations and bodies to defend their rights, and encourage them to engage in civil society institutions in general. This would allow them to strengthen their identity, and promote their right to enjoy legal capacity and exercising this right on an equal basis with others, and participate in the design of forms of legal and judicial assistance when deemed necessary, all within the framework of the "support in decision-making" model in a way that strengthens their individual autonomy and privacy and freedom to choose and decide.



## **Articles (13):**

### **Access to Justice**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Article (101) of Paragraph 1 of the Jordanian Constitution sets the general rule for everyone's right to access to justice, regardless of their nationality or background, and whether they are Persons with Disabilities or others, as stated in this article: "the courts are open to all and there shall be no intervention in their affairs (233)." Law No. 31/2007 in Article (4) paragraph (i) clause (1) cited some of the provisions governing the right to access to justice, which stipulating that «taking into account the health conditions of Persons with Disabilities as to places of arrest, if required by the nature of the case and the circumstances of arrest. (234)»

Initial review of these texts, particularly those stated in the Law No. 31/2007, shows that they adopt the medical approach in dealing with the right of Persons with Disabilities in accessing justice. The text reads: "take into account health conditions", which looks to People with Disabilities as medical conditions and in line with the general trend prevailing in the national legislation system and related policies, plans and programs, as explained in this report.

Policymakers have recently tried to remedy the inherent deficiencies in the right of Persons with Disabilities to access to justice, whereby the National Strategy in Phase II (235) came up with a set of measures and activities within the section on Legislation that are mostly focused on training and awareness-raising and ensuring environmental accessibility of judicial facilities. The Higher Council was also tasked with monitoring the implementation of these measures with the relevant authorities, during the time period set for the implementation of the strategy in Phase II (2010-2015).

Since Article (12) of this report confirmed the extent of discrimination faced by Persons with Disabilities as a result of diminishing their legal capacity or depriving them from it completely, there is no doubt that this approach on the part of the legislator will have a profound impact on the right of Persons with Disabilities to access to justice in a full and independent manner.

The Jordanian legislator has confirmed this approach in the area of the right of litigation in many areas in relevant national legislation. Under Article (3), paragraph (1) item (a) of the Law of Criminal Procedures No. 9/1961, it is stated that "if the victim in the crime has not completed 15 years, or has a mental "handicap", the complaint is lodged by his custodian and if the crime is financial, the complaint is accepted by the guardian. (236)»

In fact, this text seems to reflect the legislative philosophy and the same stereotypical approach adopted by the Jordanian legislator towards persons with psychosocial and intellectual disabilities - which was already mentioned in Article (12) of this report relating to the legal capacity - where the legislator explicitly noted in the provisions of the Civil Law (Article 128) and the Personal Status Law (Article 212) that the person with a psychosocial or intellectual disability is considered like a young discerning or undiscerning child, as determined by physicians and the decision of the court. These two articles note the "the demented are like discerning children, insane persons are like undiscerning children, while the behavior of persons who suffer from temporary insanity are like those of a rational adult when awake".

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233- [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

234- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

235- National Strategy, Phase II (pages 41-449) Section on Legislation <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

236- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=9&year=1961](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=9&year=1961)

The criminal legislation adopted an even narrower approach, as Article (3) of the Criminal Procedures Law previously mentioned does not differentiate between "inherent insanity" and "temporary insanity" and "dementia", as is the case in the Civil Law. The legislator considered the mere state of "mental handicap" as justification for not accepting the complaint of the victim, regardless of the degree and nature of disability.

What confirms this trend, too, is that the criminal legislation coupled the provision with the provision on young children who have not attained 15 years of age, thus equating the status of the two to be lacking the capacity to lodge a complaint and entrusting that to a guardian or custodian instead. This is another legislative case that deepens unaccepted discrimination and ignores the impact of the absence of reasonable accommodation and support in decision-making, as expressed in the provisions of Article (12) of CRPD.

The Jordanian legislator has considered persons with visual, hearing, psychosocial and intellectual disabilities ineligible to testify in business and civil transactions, in accordance with the provisions of Article (17) of the Notary Law previously noted, placing yet another restriction on the right of Persons with Disabilities to their exercising of the right to access to justice, on an equal basis with others. When analyzing legislative texts as well, we reassert the rejection of discriminatory terminology used by the legislator to describe Persons with Disabilities or a disability, as is the case in the use of the word "handicap" in the text of Article (15) of the Criminal Procedures Law, and the Notary and Civil Laws, as referred to above.

## ***Practices***

The absence of accessibility and reasonable accommodation in judicial facilities is one of the biggest obstacles to for Persons with Disabilities to exercise their right to litigate on an equal basis with others. The Jordanian legislator tackled the issues of reasonable accommodation and accessibility only in the narrowest of senses, limiting it to interpretation of sign language for persons with hearing disabilities, whether they are plaintiffs or defendants, witnesses or suspects. Article (230) of the previously mentioned Criminal Procedures Law notes that "if the defendant or witness is deaf and mute and cannot write, the judge appoints someone that is able to communicate with him in sign language or other technical means, as to facilitate communication between the person and the court".

Under Article (231) of the same law, "if the deaf and mute, whether a witness or suspect can write, the court clerk writes down notes and questions and the person can answer in writing". In the same vein, Law 31 /2007 in Article (4) paragraph (i) clause (1) cites a similar provision, where it allows for "the provision of assistive technology for Persons with Disabilities, including the interpretation of sign language".

We notice from these texts, despite focusing on sign language, that they do not provide guidelines for the interpreter to ensure effective communication in all aspects. This should not be considered a procedural matter that is left to the instructions or discretion of the court, as the requirement that the interpreter be an expert, known for honesty and efficiency, is a detail that cannot be overlooked especially if we know that there is a distinct lack of expertise in this area as set out in Article (11), and will be later detailed in Articles (24) and (25) of this report.

In an interview conducted by the report team with a sign language interpreter (237) on this issue, he stated that he was an eyewitness to an incident during which the policemen on the streets of Amman were unable to communicate in sign language with a suspect. The policemen wanted to take him to the nearest police station for investigation, but the person drove them to the nearest association for persons with hearing disabilities instead, in order to communicate with them through interpreters there. Later on, one of the policemen claimed the deaf person tried to kidnap him and forcibly take him to an undisclosed location.

The interviews conducted by the report team with NCHR show that there is a significant lack of environmental accessibility and reasonable accommodation and expertise in police stations and places of detention and prisons, which puts Persons with Disabilities in conditions where there is increased potential to harm their constitutional right to litigation without discrimination on an equal basis with others (238). Sources noted that work is underway on the habilitation of a special section for persons with physical disabilities in the Zarqa Governorate, and that the Directorate provides wheelchairs to those detained as needed.

While we positively note the importance that relevant authorities give to this issue, the isolation of those arrested and sentenced in a special section does not seem the best way to achieve equality and equal opportunities in this regard. How will suspects with disabilities be classified and separated according to the reason of arrest or conviction? Will all suspects with disabilities be in one section, regardless of the nature of the charge or crime committed, breaching the principle of classification of those detained and accused in line with standards and regulations and the philosophy of criminology?

With regard to the habilitation of the courts and related offices, what has been said about environmental accessibility in general in Article (9) of this report applies to these premises as well, as field visits, case studies and interviews conducted by the report team indicate that they lack the simplest forms of environmental accessibility needed for Persons with Disabilities. One interview with an activist with physical disabilities revealed that she was unable to enter the court to extract a routine certificate to complete employment procedures, and that there was no other way but to authorize a person to do it on her behalf (239).

With regard to training on CRPD and reasonable accommodation and accessibility standards for workers in the judicial field, the same interview referred to above with NCHR showed that judges are trained on CRPD, within a special training program on human rights conventions for judges, prosecutors and lawyers, implemented by the Center in cooperation with the Judicial Institute (240). This program is limited only to the definition of the principles of CRPD and its historical background, without going into technical details concerning the right of Persons with Disabilities to access to justice.

As for children with disabilities, the national legislation system did not include in the Juvenile Conduct Monitoring Law No. 37/2006 (241) and the Juvenile Law No. 24/1968 (242) special measures for children with disabilities, neither in terms of trial proceedings, nor habilitation of correctional centers, nor juvenile homes. However, there are provisions cited by the Juvenile Law No. 24/1968 (243) where the impact on

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237- Interview with sign language interpreter Mr. Ashraf Odeh, August 14, 2011

238- Interview with Nisrin Zureikat, National Center for Human Rights, Amman, Jordan, February 28, 2011

239- Interview with Aida Shishani, human rights activist, August 14, 2011

240- <http://nchr.org.jo>

241- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=37&year=2006](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=37&year=2006)

242- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=24&year=1968](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=24&year=1968)

243- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=24&year=1968](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=24&year=1968)

children with disabilities can be observed more than others, in light of the interpretation of those texts within the context of the adopted legislative philosophy towards Persons with Disabilities in general. Article (3) paragraph (1) of this Law notes that "no juvenile may be restricted in any way except in cases of rage or rebellion that make it necessary to do so".

If this text is interpreted in light of the general adopted stereotypical view that persons with psychosocial and intellectual disabilities pose a "danger to public safety," as a base for the Penal Code, Criminal Procedures Law and the Public Health Law, as detailed in Article (14) and Article (17) of this report, then the phrase "... except in cases of rage or rebellion that make it necessary to do so" will be used without clear constraints to justify restricting juveniles with psychosocial and intellectual disabilities every time the relevant authority and the Court suspect the juvenile to constitute a "threat" to others because of this disability.

In the same vein, Article (31), paragraph (5) of the same law notes "those in need of protection or care are individuals to whom the following conditions apply: 5. A person whose behavior is bad and who is outside the authority of his father or guardian or mother or if the guardian is dead or absent or incapable". It is noted that this text adopts a very vague and prejudiced standard with regard to "incapacity" as previously detailed in Article (12) of this report.

We have noted the lack of clarity in standards and regulations and the gaps in determining the «restrictions and prohibitions» of legal capacity in the Civil Law, which is the authority on the interpretation of the meaning of «insanity or temporary insanity» not only with respect to legal acts, but also to determine the constraints of criminal responsibility. Therefore the juvenile court's interpretation of the meaning of «incapacity» will always be based on the Civil Law, which will make the mere existence of a psychosocial or intellectual disability, based on the medical diagnosis, as a medical condition that justifies the separation of the juvenile from their parents or guardian.

With the exception of those provisions contained in legislation related to juveniles, it does not seem that the judicial and executive authorities have taken such measures as to ensure and guarantee that children with disabilities enjoy the right to access to justice on an equal basis with others.

## ***Recommendations for Article (13): Access to Justice***

### ***At the policy and legislation level:***

1. Review and amend the provisions of the Criminal Procedures Law and related legislation, regulations and decisions, as well as amend the Juvenile Monitoring Law No. 37/2006 and the Juvenile Law No. 24/1968. This would include provisions to achieve equality of opportunities in exercising the right to access to justice for Persons with Disabilities, including children with disabilities without discrimination, through requiring the executive and judicial authorities to provide reasonable accommodation and environmental accessibility in judicial facilities, shelters and rehabilitation centers.

2. Include in the strategies of the Ministry of Justice, the Public Security Directorate and the Ministry of Social Development provisions and measures to achieve inclusion and active participation of Persons with Disabilities to promote equal access to judicial facilities and the enjoyment of Persons with Disabilities of the same opportunities available to others in various stages of litigation. This should be done in close consultation with Persons with Disabilities and DPOs to identify deficiencies and ways to rectify them.

### ***At the practical level:***

1. Activate the Higher Council's coordinating role and provide technical support to the authorities entrusted with the managing judicial facilities, GAM and other municipalities to make accessible premises like court buildings and police stations, according to the criteria adopted in the National Building Code and those adopted internationally, together with the effective inclusion and involvement of persons with disabilities and DPOs in achieving this.

2. Develop various knowledge and technical training courses for workers in the judicial and security sectors to achieve the maximum level of equal opportunities for Persons with Disabilities at various stages of litigation. These courses would include training in sign language in consultation with organizations and associations of persons with hearing disabilities, as well as communication with persons with intellectual disabilities; the provision of personal assistants as required for Persons with Disabilities; and making copies of petitions, court orders and court decisions and minutes of meetings available in Braille and in large print; again to be implemented in consultation with DPOs and the Higher Council.

## **Articles (14):**

# **Liberty and Security of the Person**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Articles (7) and (8) of the Jordanian Constitution provide the general rule with respect to individual freedom and privacy, with Article (7) stating that "personal freedom shall be preserved" and Article (8) confirming that "no person may be imprisoned or held except in accordance with the provisions of the law (244)".

It is noted that these articles did not impose but a single exception to the preservation of personal freedom, that of the provisions of Article (8). This would not pose any problems had it not been for some exceptional and controversial legal texts that allow for detaining a person based on mere suspicion, as is the case of the Special Law on Administrative Detention or the so-called "Crime Prevention Law No. 7/1954 (245)".

Although this law did not specifically mention Persons with Disabilities specifically, analyzing these texts and relating them to other legislative texts, which establish stereotypical discriminatory approaches to persons with psychosocial and intellectual disabilities where they are seen in most cases as "a danger to public safety" reveals that this law has the greatest impact on the freedom and personal security of Persons with Disabilities. Article (3) of this law notes cases where the governor can summon people and detain them without recourse to justice, starting with cases where according to paragraph (3) "a person who is at large without bail and poses a danger to people".

Given the fact that the Penal Code establishes the general principle that persons with mental disabilities are a "threat to public safety", in accordance with the text of Article (467), paragraph (3), which stipulates that "shall be punished by a fine up to JD 5 he who allows a harmful animal or an insane person that was under his guard (246)" it seems clear that the chances for these individuals to be held and detained are much greater than others, as they are viewed by the administrative governor and national legislature as a "threat to public safety".

In a premeditated approach by the Jordanian legislator to establish such stereotypes, not only with regard to persons with psychosocial disabilities but also persons with intellectual disabilities, the text of the Criminal Procedures Law No. 9/1961 (247) notes in article (233) paragraph (5) that "if, based on medical diagnosis, the court finds that the suspect suffers from a mental disability (mental retardation) and is found guilty of the charge, it convicts him but frees him of responsibility and places him under behavioral supervision from one to five years. The court also has the right to place the individual at the National Center for Mental Health or any other shelter for treatment of the manifestations of dangerous behavior to public safety, which may accompany his retardation".

In fact, this article's shallow wording and clear confusion between intellectual disability and psychosocial or mental disability, as well as its use of discriminatory terms that violate CRPD's provisions, rely solely on absolute medical opinions and are devoid of any other considerations relating to environmental and attitudinal barriers. This poses challenges to the freedoms of Persons with Disabilities, and justifies the practice of forced detention, even if the suspect had been released from responsibility for the charges attributed to them.

This final point calls for a review of the provisions of criminal responsibility in Jordanian legislation, in light of concepts and new principles in the field of disability which reject the adoption of general

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244- [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

245- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1954&no=7](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1954&no=7)

246- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

247- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=9&year=1961](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=9&year=1961)



preconceived notions in deciding criminal responsibility or denying it, requiring instead that each case be considered on its own, and through the study of various aspects, not only medical reports, so that no guilty party escapes justice and punishment, but also so that no forced detention measures are taken in an absolute manner.

It should be noted here that many of the workers and specialists in the field of psychosocial health in Jordan do not seem comfortable with the legislative and judicial approach of dealing with persons with psychosocial disabilities and believe that there must be a full review of the system of legislation and judicial applications, in light of modern concepts of inclusiveness governing the assessment and determining the types of psychosocial disability, which takes into account social and environmental dimension in a broad sense (248).

In the same direction on forced institutionalization at hospitals and specialized centers and shelters, the text of the Public Health Law No. 47/2008 (249) in article (14) noted cases where a competent doctor can decide a person's admittance exclusively to these hospitals or centers, as noted in paragraph (2) where these cases include situations where "the patient or the addict causes harm to himself or to others, whether physically or morally". Article (15) of the same law gave the Minister of Health the authority to discharge or stop institutionalization based on a medical report independent of any other considerations. This applies in cases where the detention decision has not been issued by a court ruling as previously detailed.

It is interesting to note in this text that it describes physical or moral "harm" a reason for forced detention, without criteria to what is meant by "harm" or who has the authority to assess that and on what basis, especially when it comes to moral "harm". Is the family's concern for social stigma part of the definition of "moral harm"? If this is the case, then the effect will be further encroachment on the freedom of persons with psychosocial disabilities, and even persons with intellectual disabilities, on the grounds of the unjust social perception that legal movements are working to eliminate and replace this with the principles of inclusion and acceptance of the others.

## ***Practices***

Practices show the reluctance of many families to heed the calls of institutionalization centers and hospitals to receive their resident family members after recovery or improvement to their health, according to doctors and specialists at these centers. This factor overwhelms the health sector and deprives those persons of their right to live independently and to be included in the community (250).

In an interview conducted by the report team with the Jordanian Psychological Association (251) and with persons with psychosocial disabilities, there are cases of individuals being detained at mental health centers for over 20 years without their family members checking on their status or requesting that they be discharged (252). It should be noted here that these centers and the National Center for Mental Health contain wards that resemble detention centers, complete with iron gates, restraints and shackles used in cases of so-called "dangerous" patients, in addition to the use of electric shock therapy as detailed in article (17) of this report.

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248- Interview with Dr Mohammad Asfour and Nael Udwan, National Center for Mental Health, Ministry of Health, Amman, Jordan, January 16, 2011

249- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2008](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2008)

250- Interview with Dr Mohammad Asfour and Nael Udwan, National Center for Mental Health, Ministry of Health, Amman- Jordan, January 16, 2011.

251- <http://jpajo.org>

252- Interview with Dr. Zuhair Zakaria, president of the Jordanian Psychological Association, January 23, 2011

There have been two incidents of resident suicide at the National Center for Mental Health in less than a year. A resident in his thirties hung himself using his shirt in 2010, and details and circumstances of the incident were not made public (253). In a similar incident in 2011 at the same center, a 51-year-old resident hung himself by electric wire and was found dead in the restrooms. This person had been held at the center since 1991 where he was being treated for schizophrenia, according to the Center's administration (254).

It is worth noting in such incidents that the concerned authorities do not usually bother to investigate the actual causes for suicide and fail to evaluate performance and to hold these centers' management and staff accountable for any negligence or shortcoming. After each such case, the focus is on eliminating criminal suspicion and concluding that the person carried out this act on his own without incitement or assistance. There is no consideration for the conditions of detention, how the person was treated, the methods used for treatment, or the quality of drugs that were administered, all factors that can push residents to commit suicide in such a painful manner.

In the area of practices, it should also be noted that Jordan's adoption of the traditional special education track as an approach to deal with students with various disabilities makes the existence and establishment of boarding educational institutions, especially for students with intellectual disabilities and students with visual disabilities at the elementary education stage, a matter that is neither criticized nor rejected by decision-makers, executive bodies and stakeholders themselves, including the families of Persons with Disabilities. That said, there are certain efforts and initiatives currently undertaken by various entities to achieve inclusion at the various stages of education, as detailed in Article (24) of this report.

There is a widespread repressive practice in Jordan, especially in remote areas, whereby families hold Persons with Disabilities inside the house, and in some cases confine them with iron shackles to the bed or the window. These practices are driven by the desire to hide disability within the family, in fear of social stigma and the reluctance of other families to forge kinship relations. It should be noted that this discriminatory practice is targeted mostly at persons with psychosocial and intellectual disabilities, though persons with physical, visual and hearing disabilities seem to also be subject to such treatment, especially girls.

The interview conducted by the report team with the Dleil Women's Society in Zarqa reveals several cases of detention of Persons with Disabilities that were uncovered in that remote region, a classified poverty pocket in Jordan (255).

Finally, with regard to places of detention and judicial arrest, the reports issued by organizations and centers working in the field of human rights lack any reference to the habilitation and readiness of these places to accommodate detainees and convicts with disabilities as described in Article (13) above.

The interview conducted by the report team with NCHR (256) shows that the concepts of environmental accessibility and reasonable accommodation are absent from those who manage such places, making detainees and convicts with disabilities subject to very difficult circumstances, without equality and equal opportunities, compared to what is available to their counterparts without disabilities.

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253- [http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2010%5C10%5CLocalAndGover\\_issue1107\\_day23\\_id275565.htm](http://www.addustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2010%5C10%5CLocalAndGover_issue1107_day23_id275565.htm)

254- <http://www.alghad.com/index.php/article/480006.html>

255- Interview with Fatmeh Dahamsheh, Dleil Women's Association president, August 28, 2011

256- Interview with Nisrin Zureikat, National Center for Human Rights, Amman, Jordan, February 28, 2011.

## ***Recommendations for Article (14): Liberty and Security of the Person***

### ***At the policy and legislation level:***

1. Review the provisions of the Penal Code, Public Health Law and Criminal Procedures Law, and amend texts that deal with persons with psychosocial and intellectual disabilities as "a potential source of danger to public safety" or "source of harm to themselves or to others".
2. Modify the provisions contained in those laws or any other laws that give absolute, individual power to the doctor in issuing medical reports that recommend the forced institutionalization of a person in a hospital or institution, based on purely medical diagnosis that does not take into account the concept of comprehensive disability and the role of environmental constraints and behavioral origins.
3. Impose punishment for the detention or hiding of Persons with Disabilities within homes.
4. Review and modify the strategies and plans of the Ministry of Health, in close consultation and with the effective participation of Persons with Disabilities and DPOs, to ensure the adoption of an inclusive vision and measures based on principles of human rights and the general principles of CRPD.
5. Review the policies and educational programs of the Ministry of Education and the Ministry of Social Development and develop consistent and clear steps for the transition from the special education approach to inclusive education, involving the full and effective participation of Persons with Disabilities and DPOs.

### ***At the practical level:***

1. Develop legal, administrative, and awareness-raising measures aimed at prohibiting all forms of forced institutionalization, with the goal of treatment or education or care.
2. Modify the design of hospital rooms, wards and mental health centers that have doors and windows reinforced with iron bars similar to places of detention and adopt interactive treatment approaches that achieve communication and inclusion within the surrounding community.
3. Establish an effective rapid response coordination mechanism between the Public Security Directorate, NCFA and NCHR, in order to detect and track cases of families detaining Persons with Disabilities within the home or any other place, and grant the necessary powers to judicial officers to aid any person being held by his family.
4. Design and implement habilitation, counseling and technical support programs, including asymmetric support, especially in remote and rural areas. This would contribute to strengthening the principle of acceptance of Persons with Disabilities as part of human diversity and humanity, and promote their rights to include their issues in the local community, as a prelude to eliminating prevalent social stigma and stereotypes associated with disability.

## **Articles (15):**

# **Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Jordan joined the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) in 1991, four years after it entered into force in 1987 <sup>(257)</sup> but published this Convention in the Official Gazette only in 2006 <sup>(258)</sup>, nearly 15 years after joining it. This delay reflects the reluctance on the part of the decision-maker to take a step toward the elimination of practices that involve torture, or cruel or inhuman treatment as noted in the Convention's provisions on anti-torture.

Law No. 31/2007 did not include special provisions regarding the prohibition of medical trials, or those involving types of torture and violence against Persons with Disabilities <sup>(259)</sup>. The Jordanian legislator approved the conduct of trials and medical and scientific research on humans, within the scope of drug studies. as set out in Law No. 2/2011 on Drug Studies, stating in Article (5), paragraph (a) that «drug studies on humans cannot be undertaken without first obtaining his written enlightened consent on a voluntary basis, based on knowledge and the undergoing of the necessary medical tests to ensure his safety. Biological samples obtained from the person may not, in part or in whole, be used for purposes that are outside those of the study. <sup>(260)</sup>»

This text would not raise any problem in the field of the rights of Persons with Disabilities, had it not been for the negative direction that the Jordanian legislator takes with regard to the legal capacity of Persons with Disabilities in general and persons with psychosocial and intellectual disabilities in particular, as set out in Article (12) of this report.

In light of the legislator's reduction of the capacity of Persons with Disabilities and because of the deeply-rooted concept of custodianship and having others conduct decision-making on their behalf, the question arises about the scope of legal protection guaranteed to them, and the extent to which the custodian or guardian can grant consent to carry out such studies or tests on them, especially in the absence of a support and assistance model in decision-making.

How can the condition of informed consent be met in this case, as mandated by Article (5) above, in light of the need to brief the person of the nature of the experiment or research, its purpose, its results and its possible implications, as well as psychological and physiological consequences.

It does not seem acceptable to say that it is not permissible to conduct such studies on all persons with psychosocial and intellectual disabilities, as that would involve obvious discrimination and would exclude Persons with Disabilities and violate their will, based on a stereotype about their ability to make decisions. This is in turn a clear violation of their right to free choice and decision-making, as determined by CRPD in its Article (3) and other related provisions. Perhaps the way out of this impasse lies in the legislative adoption of a support in decision-making model and a review of the provisions of custodianship and guardianship as detailed in Article (12) of this report.

With regard to anti-torture and the extent of participation of Persons with Disabilities in policies and legislation associated with it, it can be said that there is a significant weakness in the participation of civil society organizations (CSOs) in general, in the actions that government undertakes and the legislation that Parliament enacts in this area. The shadow report provided by CSOs to the Committee on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2010 noted the absence of CSOs from consultations and deliberations held by the Government in this regard <sup>(261)</sup>. Additionally, the official report submitted by the government did not refer to serious

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257- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en)

258- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=4764](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=4764)

259- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

260- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2011&no=2](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2011&no=2)

261- <http://www.arabhumanrights.org/publications/countries/jordan/shadowreports/shadow-cat-rpt-jor2-3-4-2010e.pdf>

consultations with relevant CSOs, as to the steps taken by the government for the elimination of practices and behaviors which include any form of torture, as stated in its report to the Anti-Torture Committee in 2009 (262).

In fact, up to the time of the publication of this report, there does not exist in Jordan a public policy against torture or any of its forms. All that has been undertaken so far are minor legislative amendments, the most important of which being the provisions in the Penal Code No. 16/1960, where the text in Article (208) paragraph (1) and (2) notes that: «he who imposes on a person any kind of torture not permitted by law with a view towards obtaining a confession to a crime or information shall be liable to imprisonment from six months to three years...for the purposes of this Article, torture means any act resulting in severe pain or suffering, whether physical or mental, intentionally inflicted on a person for such purposes as obtaining from him or from another person information or a confession, punishing him for an act he has committed or is suspected of having committed, himself or another, to intimidate that person or coerce him or others, or when the person is inflicted such pain or suffering for any reason based on discrimination of any kind, or when instigated by or with the consent or acquiescence of a public official or other person acting in an official capacity (263)». It is noted in this article that the act of torture was deemed punishable if "not permitted by law", which clearly indicates that torture may acquire the status of legitimacy when authorized by law or custom.

If we read this text with that of Article (62) of the same law that addresses reasons for permitting torture, we note in its first paragraph that "an act permitted by law is not a crime." The same article cites in paragraph (2) examples of some of the practices that do not qualify as a crime, although they involve physical or psychological harm to a person, including "types of disciplinary acts undertaken by parents towards their children in a manner that does not cause harm or damage to them as is the general custom (264).» We clearly see the weakness of the scope of protection guaranteed to people with regard to inhuman practices that might be repeatedly committed within the family under the guise of "discipline and what is permitted by custom" as described previously in this report.

Given the fact that Persons with Disabilities are more likely than others to face violence and ill-treatment, as a result of stigma and stereotypes and as was explained in this report, the weakness of the protection guaranteed to them specifically gives cause for serious concern and is worthy of immediate review, in order to achieve a solid range of legal protection for them at the level of the family, institutions and the community alike.

On the other hand, it is also noted in this text that the crime of torture has been graded down to the general status of a misdemeanor punishable by imprisonment, unless it leads to "injury or serious illness", then punishment becomes hard labor (Article (208) of the Penal Law paragraph (3). This approach by the Jordanian legislator has been criticized by CSOs and was not well-received by the Committee on the Convention against Torture, which directed a question and a recommendation to Jordan to refrain from this position (265).

## ***Practices***

Jordan's adoption of the special education approach and the system of institutional care, at the expense of inclusive education and the effective participation of Persons with Disabilities in general, and children in particular, constitutes one of the most critical factors that contribute to the creation of exclusionary environments which lack censorship and the absence of measures that would guarantee Persons with Disabilities solid legal protection against torture and inhuman treatment or punishment.

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262- [http://www2.ohchr.org/english/bodies/cat/docs/CAT.JOR.2\\_ar.doc](http://www2.ohchr.org/english/bodies/cat/docs/CAT.JOR.2_ar.doc)

263- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

264- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

265- <http://sim.law.uu.nl/SIM/CaseLaw/uncom.nsf/804bb175b68baaf7c125667f004cb333/e3836461c1b585f1c12577270034c605?OpenDocument>

According to some reports and case studies, practices of physical and psychological torture of Persons with Disabilities occur in care centers and special education institutions, such as the case reported by Jordanian newspapers and news agencies in 2009 about the principal of a special education association in a remote area who punished children with disabilities and tortured them with fire. The principal and a colleague of hers would heat a spoon and then burn the back of the young children's hands with it (266).

Social stigma and stereotypes about Persons with Disabilities, stemming from deeply-rooted and inherited social practices of discrimination, exclusion, rejection of the other and the absence of a culture of diversity, play a prominent role in consecrating certain practices that are demeaning to Persons with Disabilities, which may amount to abuse, and in some cases death, especially in remote and poorer areas.

It has already been mentioned in Article (6) of this report an incident that occurred in a southern governorate and that was covered by newspapers and news agencies in 2010, during which two brothers jailed their sister who had severe intellectual disability in an animal barn for several years. The brothers took turns to beat, torture and harm the sister, until she died at the age of 19, as a result of sharp septic wounds broken ribs and fractures in various areas of the body, some of which had randomly healed as no treatment was sought for the sister for fear of discovery and a possible desire to get rid of her (267).

According to these and other cases which have been monitored and published, there is an obvious shortcoming in the system of Jordanian legislation and administrative, judicial measures and social culture which has led to the creation of a discriminatory environment with increasing stereotypes and inhuman practices against Persons with Disabilities, whatever the disability, age or gender.

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266- <http://www.khaberni.com/more.asp?ThisID=25332&ThisCat=1> or, <http://www.sarayanews.com/object-article/view/id/16067>

267- <http://jordanzad.com/index.php?page=article&id=37070> or [http://db.alarabalyawm.net/pages.php?news\\_id=287089](http://db.alarabalyawm.net/pages.php?news_id=287089)



## ***Recommendations for Article (15): Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment***

### ***At the policy and legislation level:***

1. Include a text in the Jordanian Constitution prohibiting torture in all its forms and for any reason.
2. Review the provisions of the Penal Code, particularly Article (208), and delete the sentence "not permitted by law" in paragraph (1) of this Article.
3. Delete item (a) of paragraph (2) of Article (62) of the Penal Code which allows for violating the sanctity of the body under the pretext of discipline permitted by custom.
4. Add special provisions to the Penal Code and the Law No. 31/2007 that criminalize practices that violate Persons with Disabilities on the basis of disability whether the practice occurs in an institution or within the family or outside of it.
5. Develop a comprehensive policy against torture and its forms, with the real and effective participation and representation of Persons with Disabilities and DPOs.
6. Mainstream disability issues relating to anti-torture in official reports and reports by CSOs on the status of implementation of the Convention Against Torture, as well as in the design and implementation of programs and plans developed by the relevant authorities, particularly the NCFA and the Public Security Directorate and CSOs working in this area, all in close consultation and with the effective participation of Persons with Disabilities and DPOs.

### ***At the practical level:***

1. Establish a monitoring and follow-up mechanism to protect children with disabilities from any practice involving torture or punishment or inhuman treatment that may be committed in educational institutions, or in private or public care homes and centers.
2. Require that the Higher Council, the Ministry of Social Development and the Ministry of Education play their executive supervisory role with regard to institutions, day care centers, boarding centers, and special education facilities, to ensure that they undertake their duties in this regard and provide required information and statistics.
3. Identify an effective and trusted mechanism that gives judicial officers the authority to engage in rapid intervention, follow up and prosecution of any cases of torture or inhuman treatment, even if the treatment takes place within the family.
4. Design well-studied programs to raise awareness and eliminate stigma about disability, especially in remote areas.
5. Provide technical support and family counseling through CBR programs for families on ways to deal with disabilities, as well as reasonable accommodation and specialized services, as needed.
6. Allocate a user-friendly and accessible hot line for Persons with Disabilities and others within the Public Security Directorate, NCFA and NCHR, to report any suspected case of the exposure of a person with a disability to torture or inhuman treatment or cruel punishment.



## **Articles (16):**

# **Freedom from Exploitation Violence and Abuse**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Over the past decade, Jordan has taken significant steps in terms of policies and legislation to address issues of violence and exploitation, especially domestic violence. For example, NCFA was established and set up strategies and national frameworks for the protection of family and childhood (268).

In addition, the Law of Protection from Family Violence No. 6/2008 (269) that regulates the special measures to protect individuals from violence within the family contains provisions delineating the jurisdiction of the courts and the specialized committees, in addition to provisions on penalties and precautionary measures relating to protection procedures and duration.

It is noted that these initiatives and steps did not clearly include special measures for Persons with Disabilities, in terms of defining violence and characterizing it and classifying its various forms, in addition to whether or not it is driven by the discriminatory stigma that many still see to include a component of prevailing norms and customs. As previously detailed in Article (14) of this report, the latter gain additional importance from the criminal legislation to the extent that they may lend legitimacy to certain practices involving violence or abuse, under the guise of "discipline and what is permitted by law and allowed by custom" according to the provisions of Articles (62) and (8) of the Penal Code (270).

This vacuum in policy and legislation has prompted the Higher Council to review the National Strategy in Phase II (2009-2015) (271) and add a special section on the Protection of Persons with Disabilities from Violence, Abuse and Exploitation (272). The National Strategy - Phase II's objectives and special section on "Violence, Abuse and Exploitation" require "limiting all practices which may cause violence, abuse and exploitation of Persons with Disabilities, and reduce their occurrence according to a pre-set methodology (273)".

In spite of the added value of this section, in terms of addressing the important issue omitted by the legislator and decision-maker and the authors of the Strategy themselves in Phase I, its content completely overlooked the process of legislative reform as a key step in the direction of enhancing the scope of legal protection for Persons with Disabilities from violence, exploitation and abuse.

Also absent from the Strategy is analysis of the reality of policies and strategies on violence, and analysis of legal texts, which help to set out a comprehensive methodological plan for dealing with the phenomenon of violence against Persons with Disabilities, and going beyond the mere "mitigation" stated in the objectives of the Strategy and the special section on Violence, to the complete elimination of this issue.

Moreover, the section did not shed enough light on the need to mainstream the issue of disability in national strategies and plans issued by NCFA, as this issue is only slightly mentioned in some of the programs and activities associated with the subject of violence, as reported by the National Strategy - Phase II including the "creation of centers and homes for the care of Persons with Disabilities at risk of violence".

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268- <http://www.ncfa.org.jo>

269- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2008&no=6](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2008&no=6)

270- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

271- <http://www.hcd.gov.jo/ma7.htm>

272- National Strategy, Phase II , P. (84-90), Section on Violence, Abuse and Exploitation, <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

273- National Strategy, Phase II , P. (38), Objective of Strategy, #11, p. (84-90), Section on Violence, Abuse and Exploitation

It is also worth noting the repeated reference in the section on violence in the Strategy to the term «relevant institutions dealing with the prevention and protection of Persons with Disabilities from violence and abuse,” without indicating the nature of these institutions, the existence of which the report team has not been able to confirm. In any case, this move by the decision-maker and policy-makers is an important and valued step as it addresses a subject that had not been given attention despite its seriousness and sensitivity.

With regard to violence, exploitation and abuse outside the family, there is no public policy or unified vision to address this issue. However, Jordan did issue a law to prevent Human Trafficking No. 9/2009 (274), in line with the country's ratification of certain relevant international conventions and the publication of some of these in the Official Gazette, including the Convention on the Rights of the Child which entered into force in 2006 (275), 15 years after ratification (276) as well as the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2006 (277) and the ratification of the Optional Protocol to the Convention on the Rights of the Child on Children in Armed Conflict in 2007 (278). That said, neither of the two Protocols had been published in the Official Gazette until the date of the writing of this report.

Article (3) of the Law on Prevention of Human Trafficking criminalizes the exploitation for the purposes of slavery or forced labor or prostitution or any form of sexual exploitation. We note in this law a special provision regarding Persons with Disabilities in item (2) of paragraph (b) of Article (9), which considered the occurrence of any of the crimes of human trafficking and exploitation set forth against a Person with a Disability an aggravating circumstance, making the criminal act a felony and not just a misdemeanor, as the Article stipulates: “Despite what is stated in Article (8) of this Law, he shall be punished with imprisonment with temporary hard labor not exceeding 10 years and a fine not less than JD 5,000 and not exceeding JD 20,000 each of the B: who commits any of the crimes of human trafficking in one of the following cases: 2. If the victim was female or with disability”.

The reality is that the system of national legislation and policies relating to protection from violence, exploitation and abuse, generally lacks the effectiveness and deterrence needed to completely eliminate such practices, as is the case in the adaptation of the legislator for the crime of torture as a misdemeanor, according to Article (14) of this report. The same is noted in the Law of Protection from Domestic Violence and the Law of Preventing Human Trafficking, except for the aggravating circumstances, including the crime affecting a Person with a Disability as described above.

On the other hand, we can also notice the weakness of national strategies and plans in addressing protection from violence in general and protection from domestic violence in cases of Persons with Disabilities, particularly women with disabilities, and framing any references to them in the context of care and special needs, as detailed in Articles (6) and (7) of this report.

## ***Practices***

Case studies prepared by the report team and reports published by newspapers and the relevant authorities point to incidents and bitter experiences during which Persons with Disabilities faced forms

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274- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2009&no=9](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2009&no=9)

275- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=4787](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=4787)

276- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en)

277- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-c&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en)

278- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-b&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en)

of violence, exploitation and abuse, practices that are based on stereotypes and social stigma and unfair norms and that have become a phenomenon that requires rapid intervention by the legislature and the executive, as well as the cooperation of CSOs, especially DPOs in order to prevent and eliminate them.

In one such incident, newspapers and news agencies reported the story of a 12-year-old child with cerebral palsy who died in a public hospital in Amman as a result of ill-treatment and severe neglect by his relatives and the Special Education Centre he attended. The lack of proper care had led to frostbite in the tissue of his feet as well as to anemia, resulting in a coma for two days before he passed away as a result of gangrene in the lower limbs and inflammation of the scalp due to frostbite (279).

According to official sources, cases of sexual abuse of children generally range from 700 to 1,300 cases per year (280). Women with disabilities are more likely than others to face forms of abuse, especially sexual abuse, which drives some families to conduct hysterectomy on girls with intellectual and psychosocial disabilities, fearing possible pregnancy as a result of possible sexual abuse, as noted in Article (17) of this report. Despite the lack of clear statistics on this issue, indicators show practices of exploitation and sexual abuse of women with disabilities, whether in the home or within welfare or boarding institutions. The sensitivity of the subject and customs and traditions render many institutions and families reluctant to give out information on this issue or to share details of their own experiences (281).

With regard to access of Persons with Disabilities to the psychological and social habilitation services available to victims of violence and exploitation, it should be noted that such services are still in need of further activation and improvement in general, as they are not yet accessible to Persons with Disabilities, as indicated by the website of the Family Protection Department of the Public Security Directorate (282).

In the report team's interview with the director and some staff members, it was emphasized that notifications received by the Department for situations where Persons with Disabilities faced violence or exploitation are minimal and nearly non-existent (283).

There is no doubt that the low number of reported incidents is due to Persons with Disabilities' inability to access the services available to all for reporting and communicating with management and other relevant bodies, given the weakness of reasonable accommodation and means of access.

The director pointed out that some staff had received training on the basics of sign language to ensure a minimum level of communication with the deaf, but that such training does not seem effective or sufficient to ensure effective communication, as explained in Article (13) of this report.

Psychological and social habilitation services do not seem to be better off in terms of being accessible to Persons with Disabilities, including shelters for victims of violence, which require environmental adaptation so that persons with physical disabilities can access them on an equal basis with others.

The same can be said about the lack of qualified personnel at NCFA and the Family Protection Department, and other public and private institutions working in the field of protection from violence, exploitation

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279- <http://www.amanjordan.org/a-news/wmview.php?ArtID=18680>

280- <http://www.amanjordan.org/a-news/wmview.php?ArtID=11977> <http://www.amanjordan.org/a-news/wmview.php?ArtID=3380>  
<http://www.assawsana.com/portal/newsshow.aspx?id=4529>

281- <http://www.amanjordan.org/a-news/wmview.php?ArtID=3380>

282- [http://www.familyprotection.psd.gov.jo/index.php?option=com\\_content&task=view&id=280&Itemid=382](http://www.familyprotection.psd.gov.jo/index.php?option=com_content&task=view&id=280&Itemid=382)

283- Interview with Brigadier General Mohammad Al-Zoubi, Major Sadiq Omari, the Family Protection Department, Public Security Directorate January 19, 2011

and abuse. An interview conducted by the report team with NCFA, as well as an interview with the Jordan River Foundation, which works on the issues of violence in cooperation with the competent authorities, confirm that there is a lack of qualified and sufficient cadres to deal with cases of violence and exploitation against Persons with Disabilities (284).

### ***Recommendations for Article (16): Freedom from Exploitation, Violence and Abuse***

#### ***At the policy and legislation level:***

1. Review the provisions of the Penal Code, and abolish the "discipline and what is permitted by custom" clause as grounds for legalizing practices of violence and abuse against children and women.
2. Modify the section on Violence and Exploitation in the National Strategy Phase II so that this issue is framed in a legal context, far from the perspective of welfare and shelter, and ensure the mainstreaming of disability issues in plans and programs for protection from violence, and exploitation that are issued by NCFA and the Family Protection Department and other relevant agencies.
3. Develop a national plan to eliminate forms of violence and domestic and non-domestic abuse, so that Persons with Disabilities and DPOs have a real and effective participation in the design, implementation and monitoring of such plans.
4. Amend Law No. 31/2007 to include special provisions against violence, domestic and institutional exploitation and impose deterrent penalties and measures to enhance the scope of protection and to ensure access for Persons with Disabilities who are subjected to such practices to related habilitation services, on an equal basis with others.

#### ***At the practical level:***

1. Establish an effective mechanism to monitor and follow up on cases of violence, exploitation and abuse of Persons with Disabilities, with coordination among various agencies and in close consultation and cooperation with Persons with Disabilities and DPOs.
2. Design specialized programs in family counseling and awareness raising especially in remote and poorer areas, to promote a culture of diversity and acceptance of others and the elimination of social stigma and stereotypes about disability.
3. Provide reasonable accommodation and access to services provided by NCFA, the Family Protection Department, national institutions and NGOs, in cooperation with the Council and in close consultation with Persons with Disabilities and DPOs.
4. Include children with disabilities and women with disabilities in programs and activities carried out by governmental and non-governmental organizations working in the field of combating violence, exploitation and abuse.

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284- Interview with Mohammad Miqdadi, Program Director, National Council for Family Affairs, January 20, 2011

## **Articles (17):**

# **Protecting the Integrity of the Person**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

In the field of medical treatment, the Jordanian legislator adopts the concept of the patient's free and informed consent to treatment methods as a prerequisite for any medical practice, per relevant legislation.

Article (2) of the Medical Charter supplementing the Jordan Medical Association Law No. 13/1972 that «every medical practice shall serve the patient's absolute interest and that it should be justified and conducted with his consent or that of a guardian if the person is minor or unconscious (285)».

Article (18) of the Medical Charter notes that "if a doctor is asked in an emergency situation to aid an incapable patient or one lacking the ability to perform an action and was unable to obtain legal approval in time, which must be demonstrated, then he has to undertake the required treatment without regard to any other consideration". In the same vein, in its classification for reasons permitting medical treatment with patient approval, and in accordance with the details contained in Article (14) of this report, Article (62) of the Jordanian Penal Code, paragraph (2) item (c) states that the doctor is not responsible for "surgical and medical treatments applicable to the practice, provided he has the consent of the patient or his legitimate representatives (286) "

While these texts require the patient's consent for therapeutic medical practice, they place a restriction on the scope of that consent in cases of "inability and disability" where the absolute authority to approve resides with the custodian or guardian. If we look at this restriction in light of the legislator's stereotypical view of Persons with Disabilities, especially persons with psychosocial and intellectual disabilities, whom the legislator perceives as lacking legal capacity, then we can understand that these persons will be forced to undergo medical practices and treatment that the guardian alone approves without anyone contesting their decision.

In a relatively advanced step in the field of mental health, the Ministry of Health, in collaboration with the WHO and CSOs working in the field of mental health and with a relative participation of stakeholders, developed a national policy on mental health and psychotherapy which aims to adopt a more comprehensive philosophy based on the principles of human rights and the participation of stakeholders in decision-making processes associated with treatment and related services.

One of the most prominent general principles of this policy that reflects this orientation is Principle (3) which includes clear references to the need to respect human rights and the independence of persons with mental disabilities, as well as their right to self-determination and to medical intervention that is not restrictive and that falls within the limits of respecting the privacy of the person.

Principle (8) of the same policy also noted the participation of persons with mental disabilities and their families in decision-making processes, in terms of program design, services, interventions and evaluation (287). However, it should be noted that this policy, in spite of its value as the first of its kind, still employs a medical approach that is prevalent in its texts.

With regard to legislative texts on sterilization and abortion, the Jordanian legislator considered this practice a punishable offense, as a base, even if administered with the consent of the pregnant woman,

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285- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1972&no=13](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1972&no=13)

286- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1960&no=16](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1960&no=16)

287- National Policy for Mental Health, published by the National Committee for Mental Health, January 2011, p. 13 - 16

unless required for medical treatment, then they become permissible therapeutic practices. The Jordanian legislator detailed this issue in Articles (321-325) of the Penal Code and reaffirmed it in Article (21), paragraph (a) of the Charter referred to earlier which stipulates that "in consideration of applicable laws, doctors are prohibited from performing selective abortions by any means unless continuing the pregnancy poses a threat to the life of the pregnant woman". Paragraph (b) of the same Article also states that "if a pregnant woman refused to undergo an operation, despite the seriousness of her case as assessed by a doctor, the latter has to comply with her decision after confirming her rejection".

It is noted that this final text gives the pregnant woman the right to refuse abortion, even if the continuation of pregnancy poses a serious threat to her life and provided her doctor clarifies the consequences and effects of her refusal. Here the issue of consent of the woman with a psychosocial or intellectual disability resurfaces again, as it will be entirely entrusted to her custodian or guardian, to decide as they see fit the fate of the woman and her unborn child, pursuant to the provisions of the Civil Law (288) dealing with legal capacity and its restrictions as previously explained in Article (12) of this report.

In the area of mitigating circumstance in the crime of abortion, we note a serious observation concerning Article (324) of the Penal Code which stipulates that "benefiting from the mitigating circumstance is the woman who aborts herself to maintain her honor as well as those who commit an offense set forth in Articles (322) and (323) to preserve the honor of one of his relatives up to the third degree". Because of the perception that women with psychosocial and intellectual disabilities are more susceptible to rape and sexual assault, their families are moved to perform hysterectomies for fear of possible pregnancy under the guise of necessity of medical treatment, as explained in Article (6) of this report and discussed later. This text reduces the scope of protection for women with disabilities from such crimes, giving mitigating excuse for a guardian who aborts a woman, even if the act causes her death; all under the pretext of maintaining honor and reputation when a woman is pregnant as a result of sexual assault against her. In this case, the woman is punished threefold: first as a victim of rape, second with pregnancy, and third abortion; with all which takes place against her will and without her consent.

With regard to the hysterectomies of girls with disabilities, there is no legislative text addressing this issue specifically, so it is subject to the rules and general provisions contained in the Penal Code which state in Article (335) that "if the action results in the cutting or amputation of a limb or disabling it or one of the senses, or causes mass deformity or any other permanent disability, then the perpetrator shall be punished with hard labor for no less than five years and no more than 15 years". This does not seem effective in preventing the hysterectomy of women with disabilities, which is practiced on a large scale as explained in the following section.

## ***Practices***

The interview conducted by the report team with the Center for Mental Health in Fuheis, Jordan, reveals that doctors there usually hold discussions with patients before giving them any medication or starting a particular therapy. Dr. Mohammad Asfour, director of the Center, said that in cases where it is difficult to communicate with the patient and their best interest requires treatment, they consult with the patient's family and obtain their consent (289).

Dr. Nael Udwan, Chair of Mental Health at the Center, said that Electric Shock Therapy (EST) is available and used at the center, and that this method is very effective in some cases, with side effects being

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288- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=43&year=1976](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=43&year=1976)

289- Interview with Dr. Mohammad Asfour, Director of National Center for Mental Health, January 16, 2011



limited to a temporary loss of memory for a few minutes. EST is only used only in consultation with and by consent of the person (290). In an interview with the report team Dr. Zuhair Zakaria, former president of the Jordanian Psychological Association (291), stressed that some sort of parental authority is exercised by some psychiatrists on patients, whereby those believe that they best know the interests of the patient at all times. He confirmed that treatment by EST is still used during which a patient is restricted or drugged to control his reaction to electric shocks (292).

In a field visit conducted by the report team to the National Center for Mental Health in Fuheis, the presence of rooms that resemble prison wards was noted. In the model clinic close to the Center, the team also saw a bed with restraints and belts to hold patients during the administration of electric shocks. During the same visit, two residents were interviewed and they expressed that they do not know anything about the nature or impact of the drugs and treatments that are given to them (293).

Some members of the Khotwetna Association for Persons with Psychosocial Disabilities, the first association of its kind in Jordan, noted in an interview with the report team that they do not know the nature of the medicines that are given to them, nor were their opinions ever solicited prior to the implementation of the WHO project, which saw the opening of Advisory Clinics and the adoption of a new methodology in dealing with them, particularly in terms of informing them of the nature of medicines and treatments performed on them (294).

In one of the consultative meetings held by the report team, persons with hearing disabilities said that they are treated without knowing the nature of the drug or its complications, and without being asked about the methods and treatment plan. This applies even to the hearing aids they use. It goes without saying that the basis for this is the lack of reasonable accommodation and accessibility, as set out in Article (9) and Article (11) and later mentioned in Article (25) of this report. The same is said for persons with visual disabilities who are unable to see the components of the drug and its complications and possible side effects, due to the unavailability of such information in Braille and large print letters.

With regard to sterilization, particularly hysterectomies, it has already been referred to in Article (6) of this report that the Higher Council has recently revealed that approximately 64 hysterectomies are performed annually in Jordan on women with intellectual disabilities (295). Moreover, the head of the Department of Obstetrics and Gynecology at Al-Basheer Hospital, the main public hospital in Amman, noted earlier that he supports these processes for girls with intellectual disabilities, and that the hospital performs between three to four hysterectomies annually for girls and women with intellectual or "mental" disabilities. In the same vein, the President of Department of Obstetrics and Gynecology at the Jordan University Hospital said that he supported these processes, describing them as «merciful towards the girl and her family (296).»

A case study carried out by the report team shows a mother of two girls with intellectual disabilities, one 17 and the other 16, who went to a public hospital to try to find a solution to the irregularity of the menstrual cycle of the older girl, and suggested to the doctor to conduct a hysterectomy. He agreed on the condition that she consults the Ifta' council. Although the mother was unable to obtain the religious

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290- Interview with Dr. Nael Udwan, Technical Director, National Center for Mental Health, January 16, 2011

291- <http://www.jpajo.org>

292- Interview with Dr Zuhair Zakaria, former president of the Jordanian Society for Psychology, January 23, 2011

293- Interview with persons with mental disabilities residing at the National Center for Mental Health in Fuheis during a visit undertaken by the team to some of its departments, February 17, 2011

294- Interview with Khotwetna Association members, February 2, 2011

295- <http://alrai.com/article/11834.html>

296- <http://www.alghad.com/index.php/article/311922.html>

opinion, the hysterectomy was conducted on her daughter, and later, a second hysterectomy was performed on her younger daughter (297).

In fact, the real reason behind many of the families' conduct of hysterectomies on their daughters with intellectual or psychosocial disabilities is the fear from the social stigma that might affect them as a result of rape and pregnancy. We have already noted that this type of medical practice is considered a crime based on the general provisions of the Penal Code, which is why these operations are done under the guise of medical treatment, like the need to treat fibroids or tumors and similar medical reasons. Some medical reports issued by certain public hospitals noted the procedure as a preferred one even for non-medical reasons, related to daily life skills (and ability of self-care "and specifically the monthly period (298)").

The results of case studies and activities undertaken by the Higher Council's Women with Disabilities Committee in this area point to similar results, in response to which the Committee implemented a broad campaign during 2009-2010 to curb this practice, including seminars, workshops and forums to raise awareness and advocate for this issue (299).

In the area of abortion performed on the basis of disability, the legislation described above gives a mitigating excuse for those who will abort the pregnant woman, under the pretext of maintaining "honor and reputation", which encourages families to abort girls with disabilities each time they are exposed to rape resulting in pregnancy. One doctor working at the National Center for Mental Health spoke of the case of a girl with an intellectual disability that was mistakenly referred to the center, where she was examined at three different and distant times and was pregnant each time after which someone performed an abortion on her (300).

With regard to a monitoring and follow-up mechanism to ensure the right of Persons with Disabilities to the integrity and safety of the body, no such mechanism existed up until the time of writing this report. This was supposed to be a priority issue on NCHR's agenda, in its role as a national institution tasked with monitoring human rights situation in Jordan, but the Center's annual reports lack any analysis or and statistics on the rights of Persons with Disabilities in general (301).

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297- Case study on hysterectomies of girls with psychosocial disabilities (Inas), September 6, 2010

298- Non-judicial medical report issued by Al-Bashir Hospital, Department of Internal Medicine, psychological specialist, May 31, 2009

299- Interview with Maha Saudi, President of the Women with Disability Committee, the Higher Council for the Affairs of Persons with Disabilities, Amman, March 31, 2011

300- Interview with Dr Nael Udwan, Technical Director of the National Center for Mental Health, January 16, 2011

301- <http://www.nchr.org.jo>

## ***Recommendations for Article (17): Protecting the Integrity of the Person***

### ***At the policy and legislation level:***

1. Adopt a national policy where Persons with Disabilities and DPOs play an active role in ensuring stronger civil and criminal protection for the integrity and safety of the body, and ensure their individual autonomy and freedom of decision in what is practiced on them in terms of methods of treatment on an equal basis with others.
2. Amend the provisions of the Public Health Law and the Medical Association Law to reduce the authority of the physicians and the Minister of Health in forced treatment or institutionalization, and ensure the right of Persons with Disabilities to provide free and informed consent to all medical practices carried out on them.
3. Adopt a support in decision-making model for persons with psychosocial and intellectual disabilities, ensuring their right to choose and self-determine medical treatment and practices.
4. Amend the provisions of the Penal Code, and the text on the criminalization of abortion and hysterectomies on the basis of disability, and abolish mitigating circumstances set out in Article (324) of the Penal Code for committing the crime of abortion on the grounds of preserving "honor and reputation".

### ***At the practical level:***

1. Consolidate the participatory rights-based approach among doctors to ensure that they deal with Persons with Disabilities as key partners in the decision-making process for medical treatment.
2. Review the performance of mental health centers and the design of its facilities, as to achieve inclusive non-restrictive treatment, within the framework of full respect for the will of the person, his privacy and his dignity, according to the previously outlined principles of national policy for mental health.
3. Promote community support programs and family counseling and raise awareness to reduce hysterectomies and abortions on the basis of disability.
4. Establish a monitoring and rapid intervention mechanism to prevent medical practices involving the compromise of body integrity and safety in public and private hospitals.

## **Articles (18):**

# **Liberty of Movement and Nationality**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The Nationality Law No. 6/1954 <sup>(302)</sup> clearly discriminates against Persons with Disabilities more than any other law in Jordan. As stated in Article (2) of this Law, "the term (incapacitated) means the fact that the person is a minor or suffers from insanity or dementia or has lost legal capacity". As such, this Law begins with a definition that is based on a discriminatory stereotype adopted by Jordanian legislator in the system of national legislation, as has been explained elsewhere in this report, especially in Article (12) on Legal Capacity. Then Article (4) of this Law notes conditions for granting Jordanian nationality, based on long-term residence of 15 years for citizens of Arab countries, and includes in item (3) the conditions as follows: "To have a sound mind and not suffer from any handicap that makes one a burden on society".

In confirmation of the legislator's clear discrimination against Persons with Disabilities in the field of granting nationality and adopting such view as the basis for the process, Article (12) of the Law notes that "any non-Jordanian person with legal capacity who meets all the conditions can submit a request to the Council of Ministers to give him a certificate of Jordanian naturalization..." The same article in item (6) notes the same condition referred to in Article (4) above, stipulating "6. to have a sound mind and not suffer from any handicap that makes one a burden on society".

These texts clearly exhibit that the Jordanian legislator excludes persons with intellectual and psychosocial disabilities as there is a usual tendency to confuse the two and to present them as one and the same, as noted earlier in this report. The legislator went on further to clearly deny Persons with Disabilities the right to naturalization, placing the condition that a person who submits an application for citizenship must be "free of any handicap that makes him a burden on society".

In addition to the negative stereotyping and the mode of expression and characterization related to disability, as well as considering a Person with a Disability, "a burden on society", it is not clear how the legislator assesses if someone is a "burden" or is productive, and there is no doubt that the deciding factor in this matter will be either the subjective opinion of the responsible employee, or a medical report issued by the relevant committees which pass rulings on each right exercised by a Person with a Disability, to decide whether he is eligible for it or not, according to the details set out in Articles (12) and (14), and later in Article (27) of this report. Indeed, this tendency on the part of the legislator is contrary to the principles of CRPD and its purpose, and a violation of the provisions of Article (18) of the Convention.

It should be noted in this regard that women with disabilities face the same discrimination as other women with respect to granting nationality to their children and husbands, as the Jordanian Nationality Law deprives Jordanian women from passing nationality on to their husband and children. This is clear discrimination as men indeed pass on nationality to their children, regardless of whether they are married to a foreign or Jordanian woman. This is in accordance with the provisions of Article (9) of this Law which is explicit and consistent in this regard with the reservation made by Jordan on CEDAW Article (9), paragraph (2) which equates women and men in the granting of nationality to children <sup>(303)</sup>.

In addition to the fact women with disabilities face double discrimination as mentioned above, their enjoyment of fundamental rights and freedoms and their opportunities to access social services seem very limited, compared to others without disabilities, as well as men with disabilities. It seems clear that women with disabilities who have children with foreign nationalities will be in a very complicated

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302- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=6&year=1954](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=6&year=1954)

303- [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en)

situation as they would need to ensure livelihood and access services for both themselves and their non-Jordanian children.

This gets even more complicated if the girl or woman with a disability is born to a Jordanian mother and a non-Jordanian father and lives in Jordan without having nationality. In such cases, access to the necessary social services, such as education, health and work, will involve compounded discrimination on the basis of gender, nationality and disability.

With regard to the right of movement, the legislative restriction on the liberty of Persons with Disabilities in this area lies in what is reported by the Crime Prevention Law No. 7/1954 (304), which as already noted, gives authority to the governor to arrest and detain any person in cases specified by law, including Article (3) paragraph (3) which stipulates that "anyone whose presence at large without bail is a danger to people".

As noted in Article (14) of this report, persons with mental disabilities are seen by the legislator as a source of genuine potential danger to public safety and to people, in accordance with the provisions of the Penal Code and the Public Health Law referred to earlier. Therefore, these persons will be more susceptible than others, not only to arrest and detention on the basis of disability, but also to institutionalization without permission to leave in the absence of prior authorization from the competent authorities, as indicated by the provisions of Articles (12) and (13) of the Crime Prevention Law.

## ***Practices***

Case studies carried out by the report team highlight the case of Haifa Malkawi who has a visual disability and is born to a Syrian father and a Jordanian mother. Haifa did not obtain Jordanian nationality from her mother, despite being born in and having permanent residence in Jordan. This has made access to education very difficult as she was treated as a foreigner and had to pay university tuition fees that are three times higher than those for Jordanian students, in another form of prevalent discrimination on the basis of nationality in Jordan.

Moreover, despite receiving a master's degree in Education and registering a patent for developing a computer software program used in the education of children with visual disabilities in primary schools, Haifa could not get job neither in the public sector because she is a "foreigner" nor in the private sector because she has a disability, is a foreigner and is also a woman (305).

The case study presented in Article (11) of this report tells the story of Yasser El Shafei' one of the persons with visual disabilities who is born to a father from the Gaza Strip with a temporary document and a Jordanian mother. He was unable to obtain nationality even though he was born and raised in Jordan since 1970 and in spite of his marriage to a woman with a Jordanian nationality. Due to being considered a foreigner, he was faced with difficulties in education and employment, was not able to complete a master's degree, and was forced to leave the country and go to a Gulf state to be able to secure livelihood for himself and his wife (306).

A lack of accessibility and reasonable accommodation and lack of awareness of the rights and issues of Persons with Disabilities pose a real constraint on their liberty of movement and travel, which may amount at times to a total deprivation of this right.

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304- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=7&year=1954](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=1954)

305- Case study of Haifa Malkawi, about the circumstances of persons with disabilities who do not hold Jordanian citizenship, March 24, 2011

306- Case study of Yasser El Shafei, about the circumstances of refugees with disabilities, January 11, 2011

307- <http://www.albosala.com/Portals/Content/?info=TVRRd05TWIRkV0pRWVdkbEpqRT0rdQ==.jsp>

In 2010, newspapers and news agencies reported an incident about a passenger with physical disabilities who was prevented from traveling through Queen Alia International Airport on board a Royal Jordanian flight, when the pilot disallowed him from coming on board because he was bound to a wheelchair and did not have an assistant with him. The passenger was finally able to board after a full hour of delay when another passenger volunteered to accompany him all throughout the trip, despite the passenger's insistence that he did not need an assistant, as he has been traveling alone for years (307).

## ***Recommendations for Article (18): Liberty of Movement and Nationality***

### ***At the policy and legislation level:***

1. Abolish the requirement contained in the Nationality Law in Article (4) item (3) and (12) Clause (6) which prevents Persons with Disabilities from obtaining Jordanian nationality.
2. Lift the reservation contained in Article (9), paragraph (2) of CEDAW on women's right to grant nationality to their children and husbands and amend the Nationality Law in line with that.
3. Repeal the Crime Prevention Law as a whole, as it violates the Constitution and provisions of international law, and amend the Penal Code and the Public Health Law, and abolish any rule that considers all persons with psychosocial and intellectual disabilities a threat to public safety and to people.
4. Adopt a national policy with the active participation of Persons with Disabilities and DPOs in its design, implementation and monitoring, for the purpose of eliminating environmental and attitudinal barriers at airports and ports and to ensure the right of Persons with Disabilities to move to and from the country in complete independence and privacy.

### ***At the practical level:***

1. Have CSOs form a broad advocacy movement to amend national legislation, in order to achieve equality and equal opportunities in obtaining nationality and passing it on to husbands and children.
2. Include the issue of discrimination against women with disabilities with regard to access to nationality in programs and activities of human rights organizations and organizations active in the field of women's rights.
3. Work to find legal precedents that will promote women's right to nationality and to passing it on based on the principles of human rights and the provisions of international law.
4. Organize practical training courses for workers in airports, ports and border points on human rights and the rights of Persons with Disabilities, and develop a guidebook that explains the reasonable accommodation and means of accessibility necessary for Persons with Disabilities before, during and after a trip.

## **Articles (19):**

### **Living Independently and Being Included in the Community**

**[Back to content page](#)**



## ***Analysis of Current Legislation and Policy***

A fact that must be mentioned at the outset, before delving into the details of the legislator's approach to the issue of independent living for Persons with Disabilities, is that this issue, as reported by CRPD in its Article (19) and other provisions and general principles, does not seem entrenched in the system of national legislation and policies relating to Persons with Disabilities, or those of empowerment, habilitation and community support in general.

Law No. 31/2007 includes a few scattered provisions which do not mark an adoption by the legislator of a clear and comprehensive understanding of the right of Persons with Disabilities to live independently. As is the case with other provisions and measures stipulated in this Law, one can see the legislator's dominant medical welfare approach in this area, which originally aims to strengthen inclusion, equality and equal opportunities.

As stated in item (3) of Article (4) of Law No. 31/2007 <sup>(308)</sup> paragraph (d) dealing with "Social and Institutional Care", the relevant authorities provide "vocational and social habilitation services, rehabilitation and support services of all kinds that achieve inclusion and active participation of Persons with Disabilities and their families". This would not be controversial had the legislator not have placed it under the "Social Protection and Institutional Care" heading and had it not been for the text in item (4) of the same paragraph on the provision of "institutional day care or shelter for Persons with Disabilities who need it".

This approach by the legislator shows that special measures related to habilitation and rehabilitation and support services in the framework of institutional care, even if the text also mentions "in order to achieve inclusion and active participation of Persons with Disabilities and their families" in item (3) of this paragraph. Any talk about inclusion becomes difficult in light of a text that acknowledges and encourages institutionalization services, when the law was originally enacted to uphold CRPD's principles and provisions which promote the rights-based approach in dealing with the inclusion of Persons with Disabilities and their issues.

Law No. 31/2007 did not include measures and provisions for assistants to Persons with Disabilities, as the paragraph on "reasonable accommodation" contained in Article (2) of that Law did not include any reference to assistants as a form of necessary "reasonable facilities" for exercising rights and freedoms on an equal basis with others. The paragraph noted "reasonable accommodation" as the "equipment needed to harmonize environmental conditions in space and time and the provision of equipment, tools and aids where necessary to ensure the exercising of Persons with Disabilities of their rights on an equal footing with others, while not leading to any serious harm to those concerned".

The legislator limited the forms of reasonable accommodation to equipment, tools and means of assistance, without considering or providing for forms of human assistance that include having a personal assistant, similar to those reported by CRPD in its Article (19), paragraph (b).

The National Strategy in Phases I and II <sup>(309)</sup> included special focus on Family Empowerment Family and Social Protection, citing certain measures and activities along the lines of institutional care, and even supporting care centers and institutions, with a single reference in the document in the National Strategy - Phase II, to "making Persons with Disabilities and representative organizations aware of

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308- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

309- National Strategy, Phases II, p. 68-71, Section on Family Empowerment and Social Protection <http://www.hcd.gov.jo/str15.htm> <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

ways to live independently (310)” without clarifying what is meant by this or how to achieve it.

Article (4), paragraph (d) clause (1) of Law No. 31/2007 provided “training for families of Persons with Disabilities of the proper way to deal with a Person with Disability so as not to compromise his dignity or humanity”.

In clause (6) of the same paragraph stressed the need to provide “Community Based Rehabilitation (CBR) programs in accordance with policies determined by the Higher Council”. In the same vein, the general principles of the National Strategy - Phase II (2010-2015) reads “...improve the level of institutional services for Persons with Disabilities, so as to achieve the principles of inclusion and independence, and empower the family at the social, psychological, economic, and health levels, by building the family’s capacity to achieve a society that is inclusive and safe for Persons with Disabilities (311)”.

The strategy also included a special section on “Habilitation, Rehabilitation and Support Services (312)” which included a range of programs and activities where welfare and medical services were confused with the broader concepts and objectives of CBR programs, as the text linked family and community support programs to habilitation services and occupational therapy. This constitutes a significant decline for the original goal for CBR programs whose end result is to mainstream disability issues in programs and local plans and make social services that are available to all inclusive and accessible to Persons with Disabilities, on the basis of equal opportunities and equality with others. This should be done with the involvement and active participation of Persons with Disabilities and their families and DPOs, as stipulated by CRPD and the guiding principles for CBR programs recently issued by the WHO (313).

## ***Practices***

Deficiency in environmental accessibility in the broad sense and the absence of the concept of reasonable accommodation and universal design, as shown throughout this report constitute one of the most prominent obstacles to achieving independent living for Persons with Disabilities, both at the family at local community levels.

In an interview by the report team with the president of the Dleil Women’s Society, several cases were reported in Dleil, a designated poverty pocket in Jordan, involving Persons with Disabilities that face difficult living conditions that constitute a violation to their right to live in dignity and independence. In one of the field visits that the Society undertakes to provide family guidance and awareness, the team saw a person with a severe physical disability who had been isolated in a room of his own and served scraps of dirty bread. It was noted that the person was unable to go to the bathroom alone, so diapers were used and were left unchanged for several days until one of his sisters who lives outside Dleil came to change them and to clean the room (314). Such stories point out to the absence of the concept of independent living and related specialized training on daily life skills and domestic environmental adaptation and family counseling.

The director of the Higher Council’s Liaison Office for the South of Jordan said that “in cooperation with YAI Organization and the Ministry of Social Development, and with support from the U.S. Agency for

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310- National Strategy, Phase II, p.71 Section on Health and Disability <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

211- National Strategy, Phase II, p. 38, Principles of the Strategy, No. 7 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

312- National Strategy, Phase II, p. 50-53, Section on Habilitation, Rehabilitation and Services <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

313- <http://www.who.int/disabilities/cbr/guidelines/en/index.html>

314- Interview with Fatmeh Dahamsheh, Dleil Women’s Society president, August 28, 2011

International Development, the Council has created independent group homes, a pioneering effort in the Middle East that aims to promote the concept of independent living for persons with mild and moderate intellectual disabilities. This project was implemented in the governorate of Karak in southern Jordan and will now also be implemented in other areas (315)."

In fact, achieving CRPD's principles and its spirit and goals for independent living, as stated therein, means that initiatives are all addressed to achieve family and community inclusion for Persons with Disabilities, which must be reflected in the location, design and adaptation of those homes so they are not mere daycare homes or shelters under a different name.

With the exception of "the Saudi Center for Blind Girls", established at the initiative of Saudi Arabia and now equally funded by both the Jordanian Ministry of Social Development and Saudi Arabia (316), which provides basic training in homemaking, mobility and movement, and literacy programs for girls with visual disabilities, there is no specialized center in Jordan in the field of independent living skills and tools for Persons with Disabilities, irrespective of the type of disability and gender.

### ***Recommendations for Article (19): Living Independently and Being Included in the Community***

#### ***At the policy and legislation level:***

1. Review the section on "Family Empowerment and Social Protection" in the National Strategy and include targets, indicators and activities based on non-medical therapeutic or preventive concepts, taking into account the promotion of independent living as an integral strategic goal and not just an activity.
2. Review CBR programs and develop the capacity of workers so that the achievement of independent living for Persons with Disabilities is a purpose and an end.
3. Amend the text of paragraph (d) of Article (4) of Law No. 31/2007 to note enhancing independent living for Persons with Disabilities, to require executive bodies to provide reasonable accommodation and various means of accessibility as well as to eliminate references to the non-inclusive institutionalization services and care homes in the same paragraph.

#### ***At the practical level:***

1. Strengthen family guidance and support programs with the help of experts and their experiences, and use "peer support" in the consolidation of acceptance of disability in the family.
2. Design and implement adaptation programs for accessibility at the homes for Persons with Disabilities, according to local action plans at the level of small villages and neighborhoods, and provide reasonable accommodation in order to achieve independent living for persons with physical disability in the family.
3. Prepare and conduct independent living skills programs in villages and neighborhoods and identify requirements of accessibility to social services at the local level and adapt them to Persons with Disabilities in accordance with the National Building Code standards and guidelines for CBR programs and best practices in other countries.

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315- Interview with Dr. Manar Mdanat, Higher Council Liaison Office Head in the south of Jordan, February 1, 2011

316- [http://www.mosd.gov.jo/index.php?option=com\\_content&task=view&id=505&Itemid=198](http://www.mosd.gov.jo/index.php?option=com_content&task=view&id=505&Itemid=198) or <http://www.se.gov.sa/vi/10.htm>

## **Articles (20):**

### **Personal Mobility**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

It may be surprising to say at the beginning of this article that legislation and national policies and plans in Jordan are devoid of any reference to the right of Persons with Disabilities to personal mobility. The reason behind this is perhaps the linguistic and technical mix-up that many non-experts have with regard to the terms "transportation" and "mobility".

Reviewing the texts of the National Strategy <sup>(317)</sup> and the provisions of Law No. 31/2007 <sup>(318)</sup> reveals such confusion, which prompted the decision-maker to focus attention on the formulation of national strategy and legislation for means of transportation, and allowing for exemptions from customs duties, taxes and various fees. However, some measures can be seen in the National Strategy - Phase II in the section on "Access" which calls for equipping traffic lights with audio and visual signals to ensure the safe and independent movement of persons with visual and hearing disabilities <sup>(319)</sup>. The National Building Code also detailed measures on this issue, in addition to standards for signage at public facilities and buildings <sup>(320)</sup>.

With the exception of those scattered measures, which originally fall under sections and texts on environmental accessibility, the system of general national legislation and policies and those dedicated to Persons with Disabilities do not contain any provisions or plans relating to the right of movement and personal mobility of Persons with Disabilities, in the proper sense intended by the international legislator and the stakeholders themselves.

## ***Practices***

The absence of environmental accessibility and reasonable accommodation, including personal aids, forms a major stumbling block to the Persons with Disabilities' enjoyment of their right to movement and mobility, independently and safely and on an equal basis with others. With the exception of some very limited activities associated with movement for persons with visual disabilities conducted by some of their associations on the sidelines of ceremonial events or workshops <sup>(321)</sup>, and special courses on the art of mobility provided by the Saudi Center for Habilitation of Blind Girls in Amman, both inside and outside of Jordan <sup>(322)</sup>, in addition to the Student Support Office at the Deanship of Student Affairs which provides simple exercises for students with disabilities on mobility and movement within the university <sup>(323)</sup>, there are otherwise no plans or programs for the art of movement and personal mobility of Persons with Disabilities.

Despite the limited activities mentioned above, these only target persons with visual disabilities, since mobility and movement for persons with physical disabilities are associated with functional applications in Jordan with physiotherapy and occupational therapy, which reflects the extent of mixing between mobility as one of the basic rights acknowledged by CRPD and international law and medical treatment programs.

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317- National Strategy, Phase II <http://www.hcd.gov.jo/ma7.htm> <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

318- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

319- National Strategy, Phase II, p. 75, Section on Access <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

320- National Building Code Requirements, issued pursuant to the provisions of the Jordanian National Building Law No. 7/1993 and the decision of the Jordanian National Building Board No. 1/1992 and the decision of the Council of Ministers No. 3989 / 1993, published in the Official Gazette No. 3887 of that year.

321- Interview with Suhair Abdul Qader, Chairwoman of Cultural Forum for the Blind, Amman September 6, 2011; <http://www.fabjo.org>

322- <http://www.se.gov.sa/vi/10.htm> [http://saudicenter.org/portal/index.php?option=com\\_content&task=view&id=30&Itemid=32](http://saudicenter.org/portal/index.php?option=com_content&task=view&id=30&Itemid=32)

323- <http://www.ju.edu.jo/Pages/Arstudentaffairs/%D9%90ARStudentCounselingDepartment.aspx>

With regard to persons with hearing disabilities, a large group of them who attended one of the consultative meetings (324) noted that they are facing real difficulties that limit and restrict their right of movement and mobility, as a result of the lack of indicative guidance signs at public facilities and on many streets.

As for tools and assistive devices for movement and mobility, it is noted that their use is not widespread among Persons with Disabilities, due to lack of awareness on the part of the vast majority of stakeholders, and lack of training on how to use these devices, in addition to their prohibitive cost to individuals, as stated by the President of the Friendship Society for the Blind in the general consultative meeting held by the Civil Society Program, referred to above (325).

It is worth mentioning that the simple assistive devices that are used for personal mobility and movement by Persons with Disabilities like white canes, wheelchairs and amplifiers, are imported from abroad without quality standards and control measures. Therefore, most of these tools and devices tend to be of low quality and are too poorly manufactured to be accessible to those concerned. The very few high quality devices available are sold at very high prices that those with limited or moderate income cannot afford to pay, despite the fact that these devices are exempt from customs duties, taxes and fees, in accordance with paragraph (f) of Article (4) of Law No. 31/2007. Up until the time of the launching this report, no regulatory provisions had been issued to apply the system of exemptions contained in this paragraph (326).

### ***Recommendations for Article (20): Personal Mobility***

#### ***At the policy and legislation level:***

1. Include measures and provisions in the National Strategy and the Law No. 31/2007 concerning the right of Persons with Disabilities to movement and personal mobility, and separate and distinguish that from transportation and its requirements.
2. Develop a guidebook and a specialized course on movement and mobility, with the participation and supervision of Persons with Disabilities and DPOs and mainstream it in educational curricula and CBR programs.

#### ***At the practical level:***

1. Train specialized personnel in movement and mobility, and ensure that trainers are themselves Persons with Disabilities.
2. Make assistive devices and technology for movement and mobility available at low prices, and work to develop local sources to manufacture them, according to internationally-adopted specifications and standards, and as accepted and approved by Persons with Disabilities and DPOs.

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324- Consultative meeting in the Central Region for the governorates of Amman and Madaba to discuss the draft report July 16, 2011 in Amman

325- Panel discussion with 250 activists and representatives of DPOs and service providers, on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

326- Consultative meeting in the Central Region, the governorates of Amman and Madaba, to discuss the draft report, July 16, 2011 in Amman and the Consultative meeting in the Northern region, the cities of Irbid, Jerash, Ajloun to discuss the draft report June 25, 2011 in Irbid

## **Articles (21):**

# **Freedom of Expression and Opinion and Access to Information**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Although the Jordanian Constitution has ensured the right of expression for all, in accordance with the provisions of Article (15), it has also placed a restriction on the full enjoyment of this right, noting that when exercising the right to expression and opinion, one must be careful "not to exceed the limits of law" (327). As such, this right is constantly stripped every time new laws are issued to restrict the freedom of expression.

Examples of exclusion of and discrimination against Persons with Disabilities in access to information and freedom of speech are clear in the absence of types of accessibility and reasonable accommodation, as detailed in Article (9) of this report.

The Law Guaranteeing the Right of Access to Information No. 47/2007 (328) is the principal legislative reference in organizing the right to access information for all. Article (7) of the Law notes: "Subject to the provisions of the legislation in force, every Jordanian shall be entitled to receive information requested, in accordance with the provisions of this Law, if he has a legitimate interest or legitimate reason.» Article (8) of the same law notes that "an official should facilitate access to information, and ensure revealing them without delay and in the manner set forth in this law".

The provisions of this Law and related instructions did not provide for "access to information services (329)" issued by the Department of the National Library (330) or any provisions or special measures for accessibility and reasonable accommodation to ensure that Persons with Disabilities can access information on an equal basis with others.

The Press and Publications Law No. 8/1998 (331) included in Article (6) provisions affirming the right of all citizens to access information and statistics and data, and the right of the press in publishing, surveying and searching for information and its sources. However, this Law, like other legislation and related instructions, did not include any measures related to ensuring the right of Persons with Disabilities to access information easily, putting them in a state of perpetual exclusion and inequality in the enjoyment of this right and exercising it on an equal basis with others.

Law No. 31/2007 made the exchange of information and the conduct of studies and statistics and accessing them a general principle upon which this law is based, and that should be reflected in other texts and provisions, as stated in Article (3) paragraph (i): "Promoting and enhancing scientific research and exchange of information in the field of disability and the collection of data, information and statistics on disability, to keep pace with developments in this area". In the same context, Paragraph (e) in its item (4) of Article (4) of the same Law notes the "access of Persons with Disabilities to technology and information systems including the Internet and various audio, visual and print media... (332)".

It is observed that these texts and what was included in the objectives of the National Strategy - Phase II (333) do not deal with the right of Persons with Disabilities of access to information as a truly independent right with measures and provisions must be distinguished from other rights, and organized clearly and accurately. The text referred to above merely lists forms of accessibility and reasonable accommodation

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327- [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

328- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2007)

329- [http://images.jordan.gov.jo/wps/wcm/connect/gov/\\$\\$!!941/\\$\\$!!946/\\$\\$!!1036/\\$\\$!!943/\\$\\$!!2668](http://images.jordan.gov.jo/wps/wcm/connect/gov/$$!!941/$$!!946/$$!!1036/$$!!943/$$!!2668)

330- <http://www.nl.gov.jo/ar/Pages/default.aspx>

331- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1998&no=8](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1998&no=8)

332- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

333- National Strategy, Phase II, p. 38, Objectives of Strategy, 8th Objective



in the area of media and information technology, without a clear link between these measures and the essence of the right to expression and access to information. This reduces these texts to mere rules and guiding principles for environmental accessibility, like the rules and principles contained in the Building Code Requirements as described in this report.

## ***Practices***

The practical reality in the field of exercising the right to expression and access information for Persons with Disabilities reflects the vacuum in legislation, policies and programs described above, as research and study centers and newspapers in Jordan do not issue accessible copies of their publications as to allow Persons with Disabilities to effectively review them and benefit from them

In an October 2010 consultative meeting organized by CSP in collaboration with the Office of Student Support at the University of Jordan with a large group of students with disabilities, a large number noted that they face real difficulty in accessing information, due to the lack of reference materials and studies and research in their areas of study in accessible and easy format, which they can use freely and independently on an equal basis with their counterparts without disabilities. The same was reported by a group of graduate students with hearing and visual disabilities in the various consultative meetings, as well as the broader meeting referred to earlier (334).

According to a specialized study by a group of academic specialists in the field of information technology at Yarmouk University, entitled "Towards a More Accessible E-government in Jordan: an Evaluation Study with Users who are Visually Impaired and Web Designers (335)", the vast majority of websites and their content in Jordan, including those of universities, public libraries, the Higher Council and government bodies, lack internationally recognized accessibility standards, which poses a real obstacle to the access of Persons with Disabilities in general and persons with visual disabilities in particular to information and electronic services that are available for all. According to the same study, persons with intellectual disabilities and persons with hearing disabilities and the elderly also face similar difficulties in accessing websites and web pages. Moreover, accessibility for them is almost non-existent altogether.

It should be noted that various initiatives were carried out by different parties to provide assistive tools and technology to Persons with Disabilities to facilitate access to information, including the Higher Council's distribution of computers with screen readers to a number of students at universities (336).

In addition to their random nature and the fact that they are not based on a systematic plan to ensure the right of Persons with Disabilities in expression and access to information, these initiatives also reflect a narrow understanding of electronic accessibility that is limited to persons with visual disabilities, without any regard for other forms of accessibility related to sign language for persons with hearing disabilities and simplified versions for persons with intellectual disabilities, not to mention rendering computers accessible to persons with physical disabilities, allowing them easy use and ensuring them equal access to information.

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334- Meeting with students with disabilities at the University of Jordan, held on the sidelines of a visit of by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State and exchange of information and experiences among People with Disabilities and DPOs in Jordan and the American experience in the field of university education for Persons with Disabilities (Oct 2010)

335- Unpublished study entitled "Towards a More Accessible E-government in Jordan" Iyad Abu Dosh, Ashraf Bani Mohammad, Imad Ali.

336- <http://www.hcd.gov.jo/arch19.htm>

## ***Recommendations for Article (21): Freedom of Expression and Opinion and Access to Information***

### ***At the policy and legislation level:***

1. Include provisions in the Law Guaranteeing the Right of Access to Information No. 47/2007 and the Press and Publications Law No. 8/1998 that ensure that various authorities, whether public or private, provide accessibility and reasonable accommodation in their publications, allowing Persons with Disabilities equal access to information, data and various statistics.

2. Review the provisions of Law No. 31/2007 and the National Strategy with respect to the right of Persons with Disabilities to access and obtain information, and framing this right under the right to expression, as it appears in the texts of international laws, and in CRPD's provisions on principles and general obligations, as well as the detailed measures provided in Article (21) in this regard.

### ***At the practical level:***

1. Develop a standards guidebook on forms of accessibility and reasonable accommodation that should be available in publications and websites, and include this guidebook in the regulations and instructions of the Department of National Library and the Department of Press and Publications and university libraries, institutions and unions operating in the area of research, statistics and information in various fields of specialization.

2. Provide assistive devices and equipment, as well as various forms of reasonable accommodation that contribute to removing environmental and attitudinal barriers that prevent Persons with Disabilities from enjoying their right of expression and access to information, provided that it be based on a strategic framework that seeks to mainstream reasonable accommodation and forms of accessibility in the plans and programs of institutions, bodies and organizations working in the field of information gathering and dissemination, and conducting studies and research, etc. Persons with Disabilities and DPOs should play a leading role in the development of this framework and its implementation, monitoring and evaluation.

## **Articles (22):**

### **Respect for Privacy**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

There is no doubt that a system of legislation and policies that adopts a medical welfare approach in dealing with disability issues will weaken to a large extent the scope of legal protection for the right to privacy of Persons with Disabilities, who are considered to be merely medical conditions.

In reviewing the special provisions to maintain the confidentiality of personal data and information of individuals, the Law Guaranteeing the Right of Access to Information No. 47/2007 in Article (13), paragraph (e) and paragraph (f) reads: "With consideration for legislation in force, the official shall refrain from disclosing of information related to: e. information and personal files related to academic, medical and employment records or bank accounts or transfers or professional secrets; f. correspondence of a personal or confidential nature, whether via post or telegraph or telephone or any technical means with government departments and the responses to these (337)."

The first thing to note in this text is the restriction that would prevent the application of its provisions, as fully represented in the phrase "with consideration of legislation in force" since the disclosure of information and personal data relating to education, health or correspondence will lift the legal protection every time a law or regulation permits its review, circulation and discussion.

In the field of exercise of Persons with Disabilities of their basic rights and access to various services, this restriction exposes confidential aspects as Persons with Disabilities are required to disclose the medical reports about the nature and degree of disability, as a necessary condition for the enjoyment of fundamental rights and freedoms and for the access of various social services.

In the area of work, for example, the application of the provisions of the percentage (quota) is required for the employment of Persons with Disabilities in the public and private sectors, to prove that the applicant's disability "does not prevent him from completing work tasks or is inconsistent with the nature of the post to be filled, "and all in accordance with the provisions of Law No. 31/2007 in Article (4), paragraph (c) (338) (3) and Article (13) of the Labor Law No. 8/1996 as amended by Law No. 26/2010 (339).

The same condition reported by Article (43), paragraph (c) of the Civil Service Regulations No. 30/2007, stipulates that "the person appointed to any position is required to be: ... free from diseases and physical and mental disabilities that would prevent him from carrying out job tasks and shall be appointed to the position upon the decision of the relevant medical authority, though a Person with a Disability may be appointed if the disability does not prevent him from carrying out the duties that will be assigned to him, subject to a certificate from the relevant medical authority (340)".

Indeed, these texts mean that if the applicant for any job in the public or private sector is a Person with Disability, he will be subject to widespread violation of privacy concerning their state of health and the nature and degree of disability, as the most precise details of these matters will be subject to evaluation and review by medical committees and staff at the Ministry of Health, the Ministry of Labor, the Civil Service Bureau and the department, company or entity that they seek to join.

The person will not be able to uphold that these procedures violate provisions of the Constitution or any other law, due to the adoption of the Jordanian legislator of that special restriction "with consideration for the legislation in force and what is permitted by law" and other restrictions that give the legislator authority that in many cases overrides constitutional principles and requirements of international laws with regard to respect for privacy and confidentiality of information and personal data.

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337- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=47](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=47)

338- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

339- [http://www.lob.gov.jo/ui/laws/modifyarticle\\_descr.jsp?no=8&year=1996&article\\_no=13&article\\_no\\_s=0](http://www.lob.gov.jo/ui/laws/modifyarticle_descr.jsp?no=8&year=1996&article_no=13&article_no_s=0)

340- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=30&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=30&year=2007)

Things are not better with respect to exercising other rights and freedoms, such as education, health and habilitation, all of which require disclosing medical reports detailing the health status and the nature and degree of disability. These reports decide the "capacity and the ability of" the person to exercise his rights and freedoms and to benefit from services that are available to all, as detailed in Articles (12, 24, 25, 26, 27, 29) and others in this report.

## ***Practices***

Despite mobilization on disability issues, which began to manifest itself upon Jordan's signing of CRPD in 2007, negative stereotypes still prevail on disability, especially in rural and remote areas where the family is ashamed of having a Person with a Disability among its members. This prompts them to hide that person in the interest of safeguarding the family's reputation and so that other families do not refrain from socializing or forming kinship ties.

This has posed a real challenge to the Department of Statistics (DOS), which noted the tendency of families to hide cases of Persons with Disabilities and choose to not disclose data on these individuals or provide inaccurate data about them (341). In the interview conducted by the report team with the President of the Dleil Women's Society referred to earlier in Article (14) of this report, it was noted that the incidence of families hiding individuals with disabilities and even imprisoning or binding them at home in very bad conditions is one of the common practices that the Society and civil society bodies seek to reduce and eliminate. This is done through purely personal efforts (342) due to the absence of legislative measures and a strategy for protecting Persons with Disabilities from forced hiding and for compelling families to disclose and report the cases of disability that they have. The issue of forced hiding is a major obstacle to promoting these rights and freedoms and to achieving full and effective inclusion and strengthening the culture of diversity and acceptance of others, as provided by CRPD's general and detailed provisions.

On the other hand, the prevailing medical welfare approach pushed Persons with Disabilities and their families to waive their privacy and to disclose precise details of their health and their living and family conditions, in order to access basic services and symbolic benefits that are nearly sufficient to meet their needs. What has contributed to deepening this approach, in addition to discriminatory legislation, is the adoption of national and government agencies and the private sector of a celebratory charitable pattern each time certain services are provided to Persons with Disabilities and their families. A quick look at the Higher Council's website and a review of what is published in daily newspapers from time to time reveals extent to which the right of Persons with Disabilities to privacy is violated at the personal and family levels (343).

It appears that the media's handling of disability issues in a so-called "success story" format, also further violates the right of Persons with Disabilities to privacy where every incident in their lives is deemed newsworthy and fit for publication and circulation, regardless of the nature of information that is published and disseminated, and whether or not it constitutes a violation of the right of the person to privacy and discloses secrets of his life and that of his family.

The Jordanian media still does not know the approach of "neutralizing disability" since the issue of disability is always mentioned even if the topic of media coverage is quite different. Examples include hosting a person to talk about legal or economic or social subjects given his/her expertise in this area

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341- Report, "Disabilities in Jordan", the General Census of Population and Housing 2004, the Department of Statistics [http://www.escwa.un.org/information/meetings/editor/Download.asp?table\\_name=events\\_eventDetails&field\\_name=id&FileID=481](http://www.escwa.un.org/information/meetings/editor/Download.asp?table_name=events_eventDetails&field_name=id&FileID=481)

342- Interview with Fatmeh Dahamsheh, Dleil Women's Society president, August 28, 2011

343- <http://www.amanjordan.org/a-news/wmview.php?ArtID=21621> <http://www.hcd.gov.jo/2011/56.htm>

or the other, for example, then presenting and welcoming the person by stating his/ her name and type of his/her disability (344).

An in-depth look at radio programs and press coverage devoted to address the issues of disability and social issues, in general, will reveal an unprofessional attitude on the part of most journalists in the preparation and presentation of these programs and by Persons with Disabilities and their families, which tends to reveal the most precise of details on the status of the family, its income and the date, type and degree of disability, and what "problems it causes" to the person. This is done in order to generate sympathy on the part officials and listeners with the goal of solving a particular problem facing the person or his family, which in most cases proves to be financial (345).

The absence of a systematic process and the random and fast response to some individual demands that are posted publicly, has contributed to adopting this demand-based welfare approach by those concerned as well as officials. This is at the expense of committing to full and effective implementation of CRPD's provisions and corresponding national legislation which do not support the exclusion of or discrimination against Persons with Disabilities.

### ***Recommendations for Article (22): Respect for Privacy***

#### ***At the policy and legislation level:***

1. Review the system of national legislation concerning the right to privacy and confidentiality of information and personal data, and adopt measures and provisions to ensure a strong scope of legal protection. This requires the removal of any limitation that could expose the privacy of persons in general and Persons with Disabilities in particular to any form of abuse, in particular the removal of the restriction of "what is permitted and allowed by law".

2. Modify the system of policies and legislation to repeal the medical reference as a point of entry and access to basic services for Persons with Disabilities and replace it with a policy of neutralizing disability after the provision of reasonable accommodation and different means of accessibility.

#### ***At the practical level:***

1. Design and effectively implement programs in partnership with Persons with Disabilities and DPOs seeking to raise awareness at the family level to entrench a culture of diversity and acceptance of others and to eliminate the forced hiding of Persons with Disabilities.

2. Develop training programs for media professionals, Persons with Disabilities, their families and DPOs that are aimed at correcting the media's handling and press coverage of disability issues in a way that highlights environmental and attitudinal barriers and ways to overcome them and that ensures respect for individual privacy and preserves the confidentiality of personal information and data concerning them and their family members.

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344- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011; Meeting with students with disabilities at the University of Jordan held on the sidelines of a visit of by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

245- Study entitled «The 0.64 % - The Interest of the Jordanian Press in the Disabled» <http://www.sahafi.jo/files/2d4176202577b2ef9622e8de5e21c2c3dbddea6b.html>

## **Articles (23):**

### **Respect for Home and the Family**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The legislator's adoption of the discriminatory perspective on the legal capacity of Persons with Disabilities in general, and persons with psychosocial and intellectual disabilities in particular, as well as national legislation and various practices that reinforce systematic violation of the right to privacy, as set out in Articles (12) and (22) of this report, are all factors that constitute an obstacle to Persons with Disabilities in the enjoyment of their right to form a family, and fails to provide them with respect for domestic life on an equal basis with others.

The Personal Status Law No. 36/2010 cited in Article (10), paragraph (a) that "a civil marriage requires that both parties be sensible and above 18 years of age". The legislator added an exception that gives the judge the right to marry persons with psychosocial and intellectual disabilities in Article (12) stipulating that "the judge may authorize the marriage of a person who is insane or demented, or has a mental "handicap" if it is determined by a medical official that the marriage is in his best interest and that what he has cannot be passed on to his descendants, and that he does not constitute a danger to the other party and after providing him with a detailed briefing on his status and verifying his consent (346)."

This text clearly shows the extent of discrimination embedded in national texts against Persons with Disabilities regarding their right to marry and form a family. The legislator places the condition of "sensitivity" as a basis for marriage, meanwhile the legislation sets an exception which is the provision no less discriminatory nor exclusionary of persons with psychosocial and intellectual disabilities.

The legislator initiated the "exception" text in Article (12) which permits the judge to apply it or ignore it without guidelines. The legislator went on further to also list a set of discriminatory restrictions to the realization of this text noting "determine that marriage is in his best interest" and that disability "cannot be passed on to his descendants."

The legislator added another discriminatory condition in line with the philosophy towards persons with intellectual and psychosocial disabilities, in viewing them as "a potential source of danger," as detailed in Article (12) and Article (14) of this report, asking the judge to ensure that the person «does not constitute a danger to the other party".

What is interesting in this text is that it relies on medical reports to determine the "interest and absence of danger and the hereditary aspect of disabilities", giving medical authorities absolute powers with respect to Persons with Disabilities and the exercising of fundamental rights and freedoms. The legislator also imposes a kind of imposed guardianship that is rejected by the general public, who may not consider the existence of the possibility of "danger" or the "hereditary factor of disability", as they embrace a philosophy and belief that are different from those of the judge or the legislator, and for considering other factors that are not addressed by medical reports.

In all cases, the power of the judge and the legislator must stop at stating facts at the stage of marriage, in order to realize informed consent on the part of all parties, and then leave it up to the stakeholders themselves to choose what they want and decide their own destiny freely and independently without custody or supervision, all pursuant to Article (23) of CRPD and as mandated by its general principles.

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346- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2010)



Law No. 31/2007 cited a number of provisions relating to the family life of Persons with Disabilities in Article (4), paragraph (d) clause (1-2), which were limited to the need to train families to "properly deal with a Person with a Disability" and habilitating children with disabilities" and providing "alternative care for them in case the family is unable to do so. (347)"

The law did not note what this alternative care is or who will provide it. However, in item (4) of the same paragraph, special measures are outlined for institutional care, indicating that the general attitude is towards institutionalization which does not achieve full and effective inclusion of children with disabilities.

What supports such a conclusion is the inclusion at the heart of the Family Empowerment and Social Protection section in the National Strategy, Phase I (348) and Phase II, (349) of a number of measures to improve institutional day-care services and institutionalization, noting that the Strategy's phases did not include measures to promote the right of Persons with Disabilities to form an independent family that enjoys privacy and respect on an equal basis with others.

It should be noted that the National Strategy - Phase II briefly reported an activity aimed at "educating women with disabilities of their rights in matters of marriage and family formation and hysterectomies", without reference to what is beyond awareness of rights, such as the design of training programs and the provision of reasonable accommodation, and other requirements for exercising the right to marry and form a family. This brief reference is limited to women with disabilities, as if the right to marriage and family formation and protection from forced sterilization are limited to women with disabilities only, without consideration of the men are equally in need of such measures (350).

With regard to reproductive health, the National Action Plan for Reproductive Health of the Higher Council of Population did not contain any special measures for Persons with Disabilities, (351) despite the lack of services that are accessible to Persons with Disabilities in this area.

With regard to the practice of forced sterilization on the basis of disability, the report contained a detailed statement about hysterectomies of girls with psychosocial and intellectual disabilities in Article (17), noting the lack of information or data about such practices against male individuals with disability. However, the text of Article (12) of the Personal Status Law No. 36/2010, referred to earlier, indirectly opens the way for such practices, making the "non-hereditary nature of disability» a condition for the judge to "permit" the marriage of a person with a psychosocial or intellectual disability, which may lead these persons or their families to conduct sterilization operations to meet this condition and complete the marriage.

## ***Practices***

Social attitudinal constraints, based on stereotypes and models that discriminate against Persons with Disabilities, play a major role in restricting their right to marry, start a family and enjoy privacy and independence. The regression of disability issues on the priorities' list for comprehensive development in general, and community development in particular, contributed to entrenching ideas about disability, some of which reach the level of myth that are passed on from one generation to another.

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347- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

348- <http://hcd.gov.jo/str15.htm>

349- National Strategy, Phase II, p. 68-71 Section on Family Empowerment and Social Protection <http://hcd.gov.jo/pdf/Arabic%20Strategy.pdf>

350- National Strategy, Phase II, p. 71 <http://www.hcd.gov.jo/pdf/Arabic%20Strategy.pdf>

351- <http://countryoffice.unfpa.org/jordan/drive/UNFPAJordanCPAP0812final.pdf> <http://www.hpc.org.jo/hpc/Default.aspx?tabid=231&language=ar-JO>

Regardless of their disability, Persons with Disabilities face real discrimination from families with which they try to form kinship relations, as they are rejected by these in most cases. The issue seems more complex and discriminatory when it concerns a girl with a disability, who faces great difficulty in exercising her right to marriage, as even men with disabilities reject her, because of a prevalent stereotype that women with disabilities cannot do house work or care for children. This belief - in addition to deepening a stereotype about women in general, whereby they are viewed as being solely responsible for household matters - is an inherited assumption about Persons with Disabilities and women with disabilities in particular. (352)

Discrimination and exclusion is not limited to marriage and family life for Persons with Disabilities, but also extends to impact their relatives, friends and children. One case study conducted with a sign language interpreter, who is the son of deaf parents, shows that approximately eight families rejected his marriage proposals, based on the belief that he will inevitably have children with a hearing impairment. After several years, he was able to convince one family to accept his proposal after negotiations and discussions that lasted for more than a year. (353) In another case study about a person with visual disabilities who preferred to remain anonymous, he said that he comes from a middle class family whose members are all educated, and that he has a sister without disabilities. When someone from a similar family who had proposed to his sister discovered that there is someone with a visual disability in the family, he changed his mind in fear and shame of the disability (354).

In the area of activities designed to raise awareness about the right of Persons with Disabilities to marriage and forming a family, such activities are rare and limited to noting psychological and genetic medical aspects, (355) with little focus on the rights perspective and the need to promote this right and exercising it effectively through provision of reasonable accommodation and independent living skills and means.

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352- Consultative meetings held in different governorates of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

353- Case study of sign language interpreter Ashraf Odeh on the marriage of families of Persons with Disabilities September 10, 2011

354- Case study of a higher education student with a visual disability September 10, 2011

355- [http://educational.ju.edu.jo/News/Disp\\_Form.aspx?ID=19](http://educational.ju.edu.jo/News/Disp_Form.aspx?ID=19)

## ***Recommendations for Article (23): Respect for Home and the Family***

### ***At the policy and legislation level:***

1. Abolish Article (12) of the Personal Status Law No. 36 /2010 on marriages of persons with psychosocial and intellectual disabilities if a range of discriminatory conditions are placed as previously stated, and ensure that Persons with Disabilities are able to exercise and enjoy all their right to marriage and forming a family without restriction or discrimination.
2. Include in Law No. 31/2007 provisions rejecting discrimination on the basis of kinship to a person with a disability.
3. Criminalize forced sterilization processes on the basis of disability.
4. Provide measures in national policies and plans that promote family life and reproductive health that ensure access for Persons with Disabilities to these programs and services, through the provision of forms of accessibility and reasonable accommodation.

### ***At the practical level:***

1. Have Persons with Disabilities and DPOs design and implement family support programs based on principles of human rights and CRPD in cooperation with the relevant authorities, particularly the Higher Council for Population and NCFA and the Higher Council, in order to ensure a healthy family environment that properly accepts the other and views disability as part of human diversity and humanity.
2. Provide the reasonable accommodation necessary to achieve independent living and ensure a family life with the highest degree of privacy, independence and respect, through close consultation with Persons with Disabilities and DPOs.
3. Develop standards and guidelines for alternative measures to care for children with disabilities, in the event families abandon them or are unable to care for them, and to ensure that these standards and measures guarantee an inclusive family atmosphere that enhances their active participation in society.
4. Formulate a national action plan to eradicate the practice of forced sterilization on the basis of disability, with the participation and involvement of Persons with Disabilities and DPOs in the various stages of this plan.

## **Articles (24):**

### **Education**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Although Law No. 31/2007 <sup>(356)</sup> stated in Article (4), paragraph (b) items (1-2) that public education and inclusive education is the approach that should be followed by the Ministry of Education and other relevant executive bodies, actual practice testifies that Jordan still adopts, almost entirely, the traditional approach of special education, which leans towards the establishment of private educational, non-inclusive environments for students with disabilities.

The Education Law No. 3/1994 in Article (5) on the principles of educational policy in paragraph (f) reads: "to expand the types of education in educational institutions to include special education programs, talented students and those with special needs" <sup>(357)</sup>. The Ministry of Education established for this purpose a section for special education that provided Instructions No. 4/2002 on the organization of institutions and places of special education and licensing them, in a way that completely relies on the non-inclusive approach based on educational care institutions which include students with disabilities and gifted students <sup>(358)</sup>.

The Early Childhood Development Strategy issued by NCFA in 2003, which has yet to be updated, includes measures which enforce this approach to special education, and goes even further away from inclusive education. This strategy also adopted discriminatory concepts towards children with disabilities, as it referred to "children capable of learning <sup>(359)</sup>" as detailed in Article (7) of this report.

Although the section on "Inclusive Education" in the National Strategy - Phase II is packed with words and terminology on inclusion, in line with its overall goal of achieving inclusive education for students with disabilities, the same section highlights as one of its priorities the need to support departments and cadres of Special Education at the Ministry of Education and its various branches in the governorates <sup>(360)</sup>.

The regulations for "Centers and Institutions for Persons with Disabilities"» No. 96/ 2008 <sup>(361)</sup> confirm the forced, isolative nature of dealing with issues of Persons with Disabilities, especially in the field of educational services, and adds a new example in the overlapping of roles and powers, as well as complexity and lack of clarity on the limits and nature of areas of specialization in education for Persons with Disabilities. In addition, the regulations confirm the Ministry of Social Development's mandate in the field of licensing and follow-up on centers and institutions for Persons with disabilities, which mostly provide special education services.

Referring to instructions issued by the Ministry of Education on the organization and licensing of centers and institutions of special education, referred to above, and in light of the Higher Council's intention to issue accreditation standards for centers and institutions of special education, <sup>(362)</sup> one notes a multiplicity of regulatory and executive bodies, as well as overlapping roles and confusion with regard to the limits of their respective responsibilities, in such an critical and sensitive sector such as education.

In fact, the root of the problem in adopting the special education track is the medical-welfare perception of Persons with Disabilities as medical conditions, and not persons equal before the law, having the same rights and duties as prescribed for others, whenever the accessible environment guaranteeing equality and equal opportunities for all is available.

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356- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

357- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=3&year=1994](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=3&year=1994)

358- <http://www.moe.gov.jo/NewPages.aspx?PageID=jzZTohkkyo>

359 Jordan's Early Childhood Development Strategy p. 28 [http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-ara-bic1%20\\_2.pdf](http://www.ncfa.org.jo/Portals/1/Publications/ECDstrategy-ara-bic1%20_2.pdf)

360- National Strategy, Phase II, p. 54-60, Section on Inclusive Education <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>  
[http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=96&year=2008](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=96&year=2008)

361- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=96&year=2008](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=96&year=2008)

362- <http://www.hcd.gov.jo/prog4.htm>

Medical reports issued by the Center for Early Diagnosis of the Ministry of Health or other accredited health institutions remain the password for the access of students with disabilities to education, even for isolative non-inclusive environments. Special instructions for the Organization of Institutions and Special Education Centers and Licensing No. 4 /2002, referred to before, note that the medical diagnosis is the most important prerequisite for enrollment in any of the institutions or centers that are implementing special education programs and education for children with disabilities.

These instructions stated in Article (4) on conditions and procedures for admission that "for any student to be admitted to the institution, he has to be disabled or have learning difficulties or be gifted or talented as follows: 1. A diagnostic report from the Center for Diagnosis of Early Disability, or any national institution approved by the Ministry for purposes of Persons with Disabilities. (363)"

The legislator tried in Law No. 31/2007 to mitigate absolute medical authority in the field of education in Article (4), paragraph (b) Clause (4), requiring that "the educational diagnosis be conducted within the full diagnostic team, as to determine the nature of the disability, its degree and its needs". What is meant by «full diagnostic team» - in addition to doctors - are special education specialists, social psychologists, educational counselors and others.

Such a measure seems insufficient to lessen the impact of the subjective medical perspective on disability, as it completely neglects the participation of stakeholders themselves in setting standards and requirements for exercising the right to education, particularly with regard to identifying the environmental and attitudinal obstacles, and the holistic view of the status of disability, away from subjective views that are based on the welfare approach, which is a pillar of special education in the traditional sense. (364) This science and its applications disregard the principles of human rights and CRPD and its general obligations, which require of states that are party to agreements to ensure equal opportunities and equality for Persons with Disabilities in exercising their right to education in an environment free from all obstacles and from discriminatory, exclusionary barriers.

## ***Practices***

The danger in adopting the medical diagnostic reports as a standard for the practice of Persons with Disabilities of their right to education is that some families in need may resort to extracting medical reports that involve inaccurate information about the type and degree of child's disability, in order to obtain limited financial assistance, such as the monthly allowance granted by the National Assistance Fund for families with individuals who have a severe intellectual disability or cerebral palsy or multiple disabilities. (365) In this case, the family exerts pressures to extract a report that states that their child has a disability that is classified within these categories, which will also determine the centre and the institution where they may enroll so they will not be accepted except in centers that deal with children with severe intellectual disability or multiple disabilities, while their disability may be mild or moderate.

Therefore, educational programs and services will not have an impact, but will instead have a negative effect on them, because they need programs and specialized educational measures for children with mild or moderate intellectual disabilities. Along the same lines, some families may seek to extract medical diagnostic reports that indicate that the child has a mild intellectual disability, for the purpose of registering him in a public school in order to avoid the stigma that will befall the family if neighbors and relatives know that one of its members attends a welfare center or shelter for children with severe or moderate intellectual disability. (366)

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363- <http://www.moe.gov.jo/NewPages.aspx?PageID=jzZTohkkyo>

364- <http://www.caihand.org/tak.htm>

365- [http://images.jordan.gov.jo/wps/wcm/connect/gov/\\$\\$!941/\\$\\$!946/\\$\\$!1090/\\$\\$!894](http://images.jordan.gov.jo/wps/wcm/connect/gov/$$!941/$$!946/$$!1090/$$!894)

366- Interview with Dr. Munther Ammari, Chairman of Department of Early Diagnosis of Disabilities, the Ministry of Health, October 11, 2010. Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

On the issue of gender balance in the practice of Persons with Disabilities of their right to education, the scarcity of accurate and detailed statistics about disability issues in general, and the issue of education in particular <sup>(367)</sup> makes determining the number of students with disabilities and classifying them according to gender, study stage, and nature of the educational institution they attend, a very difficult and complex matter.

There is only one statistical report issued by the Directorate of Special Education in the Ministry of Education showing the number of students with learning disabilities enrolled in the "resource rooms" which are classrooms isolated within a public school where students with learning difficulties are "assessed" and individual plans are developed for teaching math and Arabic and a few other subjects.

These statistics have shown that the number of students enrolled in resource rooms is 5,633 for female students and 7,311 for male students, distributed throughout the Kingdom's various governorates. <sup>(368)</sup> It is noted from the figures contained in this statistical report that remote areas, especially the Northern Badia area where there are no resource rooms that students with disabilities face compounded discrimination on the basis of both geographical environment and disability. This was confirmed by a teacher in the Mafraq Governorate who reported that even though he had appointed as a teacher in a resource room in one of the schools in a remote village in the Governorate, he had spent more than a year there without having seen a single resource room or a student with a learning difficulty. <sup>(369)</sup>

The statistical data issued by the Directorate of "Disabled" Persons at the Ministry of Social Development is totally inadequate to demonstrate the number of students with disabilities enrolled in special education classes at centers and associations registered with the Ministry, since all that the Ministry had up until the writing of this report was a paper indicating the number of those benefiting from services at institutions, as well as public and volunteer centers working in the field of disability. This was without accurate scientific classification to determine the nature of these services, their distribution and extent of their effectiveness and the data sets actually place donations and charity funds in the same category as with the educational services provided to Persons with Disabilities. <sup>(370)</sup>

With regard to reasonable accommodation and appropriate curriculum the text of Law No. 31/2007 in Article (4), paragraph (b) items (3) and (7) noted the need to provide reasonable accommodation for students with disabilities, including sign language and Braille and other scientific and technical means necessary to enable students with disabilities to exercise their right to education on an equal basis with others. However, there are major weaknesses in this area that prevent equal opportunities and access for Persons with Disabilities to services provided to students without disabilities, at the stages of elementary education and higher education. <sup>(371)</sup>

One of the strange findings that emerged in the focus groups conducted by the report team with a group of deaf students, parents and teachers and sign language interpreters, is that most students with hearing impairment in Jordan complete the stage of elementary education, attend college and graduate, without having mastered neither reading or writing due to lack of qualified staff to teach them the principles of Arabic or English, as well as the lack of academic language to help them to accurately and easily understand scientific educational curricula (mathematics, chemistry, physics, etc). <sup>(372)</sup>

Other discriminatory and exclusionary findings identified by the focus groups concerning students with hearing impairments who are enrolled in public schools, without being fluent in sign language or lip reading, in addition to lacking familiarity with the principles of reading and writing, given the inaccurate medical diagnosis referred to above where shame or the family's rejection of the fact that they have a

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367- Interview with Dr. Daoud Maaytah, Director of Special Education Directorate, Ministry of Education, October 19, 2010

368- Resource Room statistics 2010-2011, Ministry of Education

369- Consultative meeting held in Northern region, Mafraq Governorate, to discuss the draft report July 2, 2011

370- [http://www.mosd.gov.jo/index.php?option=com\\_content&task=view&id=204&Itemid=202](http://www.mosd.gov.jo/index.php?option=com_content&task=view&id=204&Itemid=202)

371- Consultative meeting held in different Governorates, to discuss the draft report June 22, 2011 to July 16, 2011

372- Results of focus groups conducted by the report team with a group of students with hearing disabilities, parents and teachers, and sign language interpreters at special education centers and institutions in different Governorates of the Kingdom August 24-25, 2010



son or daughter with a hearing impairment leads them to enroll their children in public schools that are not adapted to receive students with disabilities. At the same time, those families did not send their children to centers and institutions for deaf persons to learn sign language, which made these children live in complete isolation in the classroom without any scientific or educational benefit. (373)

The Ministry of Education's pass/fail criteria for the academic year 2009-2010 (374) included special measures for deaf students that reinforced the individual approach and inequality of opportunities, rather than provide a barrier-free accessible learning environment, allowing them to attain effective education within the timeframe specified for all.

These criteria allowed for failing deaf students at the various stages of elementary education a number of times which is different from that applied to students without disabilities, as stipulated in Article (21), paragraph (1) of these criteria that «allows the student to fail in two classes in the stage of elementary education, from 4th to 10th grade, provided that he does not repeat the same class more than once.” Deaf students are instead allowed to fail in two classes in the basic education stage, grades 1 to 5 and two classes from grades 6 to 10, provided that they do not repeat the same class more than once. This explains why many deaf students lag behind in basic education classes, as it is noted that students with hearing impairments are usually older than what is normal for the classes that they attend. Focus groups noted the experiences shared by deaf persons at the consultative meetings and at the panel discussion on October 22, 2010, that some 17- or 18-years old deaf students were still in 8th or 9th grade, where the average age of students is 15. (375)

The failure criteria includes a very dangerous general rule that marks a serious violation of the right of all students with disabilities, in flagrant violation of basic education, as it stipulated in Article (23) that “subject to the provisions of Article (10), paragraph (c) of the Education Law No. 3/1994, and amendments, if the failure of a student is a result of disability that was officially confirmed and it is not expected that the student will benefit from repeating class, he is then automatically promoted until he finishes the elementary stage of education”. This text explains how a majority of students with intellectual disabilities and deaf students finish elementary education without learning much, not even the principles of reading and writing as previously mentioned.

In the area of adapting the curriculum of elementary education for students with visual disability, the Ministry of Education is providing Braille through the printing presses of the Friendship Society for the Blind. (376) However, it is noted that these students face real discrimination in the study of sciences, including mathematics and computer, as the Ministry's pass/fail criteria for these, referred to above, has given the school wide subjective license in teaching these subjects to students with visual disabilities, up to the extent of entirely exempting and depriving the student from studying these areas. (377)

Article (27) of these criteria noted that “the school addresses the case of blind students by assessing their scores in some subjects like mathematics, physical education and computer in light of the nature of curriculum and capabilities of the student. The student is required to attend all the classes of the subject requiring such assessment”. Practical experiences of students with visual disability show that they did not study any of the science subjects (mathematics, computer, physics and chemistry) in the stages of secondary education, and therefore their choices in higher education are very few, as they are limited to theoretical colleges and specializations.

With regard to students with intellectual disabilities, they are the ones facing unrivaled discrimination and exclusion in the field of elementary education as well as higher education. Article (14) of the pass/fail measures noted earlier, details the criteria for accepting students with intellectual disabilities in

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373- Case study of Bara'a in focus groups conducted by the report team with a group of deaf students referred to in the link above.

374- [http://www.moe.gov.jo/Files/\(4-10-2010\)\(10-39-45%20AM\).doc](http://www.moe.gov.jo/Files/(4-10-2010)(10-39-45%20AM).doc)

375- Consultative meetings in different governorates of the Kingdom to discuss the draft report June 22, 2011 to July 16, 2011.

The panel discussion with 250 activists and representatives of DPOs and service providers, on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

376- <http://www.fabjo.org>

377- Interview with Dr. Daoud Maaytah, Director of Special Education Directorate, Ministry of Education, October 19, 2010



the stages of elementary education, stipulating that "students with special needs (mental disability according to the degree of classification) are admitted based on mental age, rather than actual age, as provided by medical reports".

The medical report according to this text is the deciding factor in determining the fate of a child with intellectual disabilities, in terms of admission into public schools, and then determining the grade they will join, regardless of age, based on medical diagnosis that does not consider environmental and attitudinal constraints, and the lack of reasonable accommodation and the forms of accessibility necessary for the child's full and effective enjoyment of the right to education, on an equal basis with others, without any form of discrimination.

Aside from the resource rooms mentioned above, the Al-Manar Centers for Intellectual Development at the Ministry of Social Development, and the private and volunteer special education centers, provide care and habilitation services for students with minor and moderate intellectual disabilities, without having those services include the teaching of the curriculum approved by the Ministry of Education in public schools. Instead, each student is assessed individually, and some are taught the basics of reading, writing and arithmetic, based on a personalized plan that the teaching staff design and develop. (378)

Until this moment, there is no case of any student with intellectual disabilities reaching higher education, or even getting a high school certificate, due to exclusion from the course of public education under the pretext of "lacking the ability or desire to learn", as referred to earlier in this article.

With regard to environmental accessibility at public schools, according to Article (9) of this report, we notice the scarcity of schools that are completely environmentally accessible. The Director of the Special Education Directorate at the Ministry of Education said that the number of accessible schools affiliated with the Ministry is estimated to be 600 schools spread out over the Kingdom's various regions, (379) ,out of 6,007 schools in the country. (380)

As for identifying accessible schools and the nature of accessibility, no official statistical data exists that shows the names and locations of these schools, as well as the number of students with physical disabilities there. The TAKAFO' campaign to promote the rights of Persons with Disabilities in the parliamentary elections 2010 (381) noted that 92 schools out of the 230 announced by the Ministry of the Interior, in coordination with the Ministry of Education, as accessible polling stations. In fact, the campaign found that most schools were not accessible in an accurate sense, since many of them had been fitted with ramps that do not conform to specifications, with a small number of model schools having accessible entrances and exits and areas. (382)

The personal experiences presented by those concerned during the consultative meetings point to the great obstacles that persons with physical disabilities face when seeking access to attend public schools. Many case studies and experiences note how students are carried so that they can go to school and reach the class, the way to which often includes a set of stairs, or narrow lanes that do not accommodate a wheelchair. (383)

Finally, the forms of exclusion and discrimination generally faced by Persons with Disabilities in elementary education negatively impacts their educational track at universities and colleges that afford them very few options, limited to the study of humanities, especially Literature and Law for students

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378- [http://www.mosd.gov.jo/index.php?option=com\\_content&task=view&id=869&Itemid=309](http://www.mosd.gov.jo/index.php?option=com_content&task=view&id=869&Itemid=309)

379- Dr. Daoud Maaytah, Director of Special Education Directorate at the Ministry of Education on students with disabilities in Education presented at the panel discussion with 250 activists and representatives of DPOs and service providers, on the side-lines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

380- [http://www.alarabalyawm.net/print.php?news\\_id=194204](http://www.alarabalyawm.net/print.php?news_id=194204)

381- <http://www.takafo.org>

382- <http://www.takafo.org> [https://docs.google.com/document/d/1mRjlsQFn9z6ijy3UcAmTy2Vzui\\_OVcoJlylv1k8LM/edit?hl=en\\_US&pli=1](https://docs.google.com/document/d/1mRjlsQFn9z6ijy3UcAmTy2Vzui_OVcoJlylv1k8LM/edit?hl=en_US&pli=1)

383- Consultative meetings in different governorates of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

with visual disability; Special Education, Computer and Physical Education for students with hearing impairment and the same for those with physical disabilities, in addition Business Management, Accounting and similar disciplines.

### ***Recommendations for Article (24): Education***

#### ***At the policy and legislation level:***

1. Adopt a national policy that seeks to achieve inclusive education for students with disabilities, based on principles of human rights and CRPD, with the participation and involvement of Persons with Disabilities, including children, families, DPOs and activists in the field of human rights.
2. Abolish medical reports as the basis for students with disabilities to access education, and a criterion for classification and identification of the institution they attend and the grade they begin and end with.
3. Review the pass/fail criteria issued by the Ministry of Education, modify it, and include provisions to strengthen the holistic view of disability, which sees it as a situation where environmental and attitudinal obstacles interact with personal factors to produce a state of disability.
4. Review the provisions of the Education Law No. 3/1994 and Law No. 31/2007, and include measures and clear provisions to ensure full equality and equal opportunities, in exercising of the right to education at all levels for students with disabilities, guided by CRPD's provisions and principles.
5. Establish a mechanism to coordinate efforts and delineate the nature of the roles and responsibilities and the limits of powers of the various actors in the field of education for Persons with Disabilities, especially between the Ministry of Education, the Ministry of Social Development, the Higher Council and the voluntary and private sectors.

#### ***At the practical level:***

1. Establish a system for data collection, compilation, analysis, dissemination and update about students with disabilities, in terms of their numbers, their geographical distribution, the nature of the institution that they attend, gender balance and the types of reasonable accommodation and accessibility provided to them.
2. Conduct advocacy campaigns and lobbying activities by Persons with Disabilities and DPOs to eliminate medical authority in determining the fate of their education at various stages.
3. Develop a guidebook on the norms and forms of reasonable accommodation and accessibility that must be afforded to each disability, and at every stage of education, with a disclosure of the sources that can provide them and offer training methods for their effective use by students and teaching staff at a school or university.
4. Organize advocacy campaigns and activities by Persons with Disabilities and DPOs in order to apply the standards of environmental accessibility in schools, adapt curricula, develop sign language and train teaching staff to effectively use it, as to allow all students with disabilities access to equal educational opportunities and a wide range of options, including the freedom and the possibility to study scientific disciplines alongside others.
5. Establish an independent mechanism for supervision and monitoring to track the extent to which governmental and volunteer agencies, and the private sector adhere to regulations and standards of inclusive education and provide reasonable accommodation and accessibility for students with disabilities, in addition to recording cases of violation of the right to education or practices of discrimination or exclusionary behavior, as well as monitoring it, reporting it and publicizing it.

## **Articles (25):**

### **Health**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The medical welfare approach in dealing with disability issues has created a reversed reality in relation to the rights of Persons with Disabilities to health. Instead of ensuring that Persons with Disabilities are able to easily access various health services and are guaranteed their full and effective enjoyment of this right on an equal basis with others, the focus here is on educating others and warning them of disabilities and identifying ways to avoid and prevent their occurrence.

Law No. 31/2007 in Article (4) paragraph (a) clause (1) notes that relevant authorities are committed to providing "preventive programs and health education including surveys for the early detection of disabilities" (384). The National Strategy - Phase I also included a section on «Prevention, Health and Disability" (385). There is no doubt that this approach reflects the obvious confusion between the promotion of the rights of Persons with Disabilities on the basis of equality and equal opportunities on the one hand, and preventive health programs directed to all, including Persons with Disabilities themselves, on the other.

As a result of the discussions and recommendations of the First Conference to Assess the National Strategy - Phase I which was organized by the Higher Council in December 2009 (386) the title of the section on Health in the National Strategy - Phase II document was amended to become «Health and Disability". The objective of the section was also modified to become «access by Persons with Disabilities to health services, including the creation of more effective mechanisms for early detection, diagnosis and early intervention and referral" (387).

This limited amendment is insufficient to neutralize the issue of prevention in a national document aiming to make a strategic shift in the philosophy of dealing with disability issues, based on the principles of human rights and CRPD. Nearly all focus in the Phase II section on "Health and Disability" focuses on diagnosis and early detection with a marked decline in the issue of reasonable accommodation, accessibility and universal design which would ensure full and effective access for Persons with Disabilities to health services and facilities.

The Public Health Law No. 47/2008 did not include provisions or measures concerning the right of Persons with Disabilities to health on an equal basis with others as Articles (3 and 4) of this law, which outlined the functions of the Ministry and its responsibilities and the quality and nature of the services which must be given, are devoid of any reference or mention of Persons with Disabilities, despite the inclusion of Article (4) of a set of basic services for specific groups of workers such as professionals and students, the elderly, children, women and others. (388)

With regard to the informed independent consent of Persons with Disabilities to therapeutic health services, as shown in Article (17) of this report, Persons with Disabilities confront real discrimination with respect to their right to choice and decision-making in terms of the administered therapeutic or habilitation medical practice, due to the legislator's restriction of their legal capacity, as detailed in the article referred to above.

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384- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

385- <http://www.hcd.gov.jo/str13.htm>

386- <http://www.hcd.gov.jo/arch127.htm>

387- National Strategy, Phase II p. 45 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

388- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=47&year=2008](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=47&year=2008)

Added to the violation of the right of Persons with Disabilities to free choice and to self-determination and decision-making in the field of health is the lack of reasonable accommodation and the absence of different forms of accessibility. Neither the National Health Strategy <sup>(389)</sup> nor the Strategic Plan of the Ministry of Health <sup>(390)</sup> includes any special measures to make facilities and health services accessible for Persons with Disabilities. All that was mentioned on disability in these documents are mere general and vague references about the inclusion of Persons with Disabilities in the health services provided for all.

The issue does not offer cause for optimism in Law No. 31/2007 in this regard <sup>(391)</sup> as it only states the need to provide "easily accessible" habilitation services and psychological treatment for Persons with Disabilities, as stated in Article (4), paragraph (a), clause (3) without any reference to reasonable accommodation or environmental accessibility or training of medical staff on human rights and disability issues, not to mention the right of Persons with Disabilities to choose and make decisions on what treatment and habilitation methods are applied to them.

In the area of reproductive health, Persons with Disabilities are confronted with large-scale exclusion and discrimination in access to these services and enjoying them on an equal basis with others, as noted by Article (23) of this report. Neither the National Health Strategy nor the Strategic Plan of the Ministry of Health did include measures that would ensure that Persons with Disabilities, particularly women, benefit from motherhood and childhood programs, as well as those generally related to reproductive health. <sup>(392)</sup>

It is noted that Phase II of the National Strategy mentioned reproductive health and listed ensuring access for Persons with Disabilities as one of the activities contained in the section on "Health and Disability <sup>(393)</sup>", Women with disabilities remain the most vulnerable to discrimination and exclusion in the field of reproductive health, however, due to their exposure to such cruel and discriminatory practices as hysterectomies and forced sterilization in general, as set out in Articles (17) and (23) of this report.

Women with Disabilities' weak access is not limited to exclusion from reproductive health services, but also extends to the different health services. This is deducted from statistical reports issued by the Center for Diagnosis of Disabilities of the Ministry of Health in Amman which indicates that the number of females with disabilities that frequent the Center did not exceed 38% of the total visitors, who amounted to 35,000 visitors from 1990 until 2007. <sup>(394)</sup>

With regard to health insurance for Persons with Disabilities, Law No. 31/2007 in Article (4) paragraph (a) clause (5) notes "providing free medical insurance for Persons with Disabilities based on regulations that will be issued for this purpose". Until regulations are issued, Persons with Disabilities remain subject to the Civil Health Insurance System No. 83 /2004. <sup>(395)</sup>

In fact, the System entailed a set of general provisions that included Persons with Disabilities, focusing on reducing the cost of treatment and hospital stays or relieving them in full, without incorporating the provisions and measures to ensure coverage of reasonable accommodation as well as assistive devices and means for habilitation and therapy.

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389- [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20Plan\(2006-2010\)%20\\_1.doc](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20Plan(2006-2010)%20_1.doc)

390- [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20.pdf.pdf](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20.pdf.pdf)

391- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

392- [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20Plan\(2006-2010\)%20\\_1.doc](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20Plan(2006-2010)%20_1.doc)

393- National Strategy, Phase II, p. 49 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

394- <http://hcd.gov.jo/repor.htm>

395- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=83&year=2004](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=83&year=2004)

It is noted that this system required the inclusion of Persons with Disabilities in health insurance, provided they are not covered by any other insurance, stipulating in Article (8) that "the beneficiaries of the Fund are divided into the two following groups: (a). Group I: individuals who will be covered by paying a monthly subscription on the condition that they not covered by any other health insurance, and they are... 4. Disabled children or those who are medically incapable of providing for themselves..." Perhaps the main critical point with regard to this limitation is that it deprives Persons with Disabilities from the opportunity to benefit from other types of insurance that may cover certain aspects that are not included in the Civil Health Insurance System, or that are provided at diminished quality. (396)

Insurance agencies and companies in the private sector in Jordan commit real and clear discrimination on the basis of disability, as some companies refrain from contracting Persons with Disabilities under the pretext of increased likelihood of risk,(397) while all insurance companies impose a higher premium on Persons with Disability for that same reason. Insurance contracts typically exclude psychosocial and neurological disabilities from coverage. Contracts also exclude anything related to disability of any kind and nature if disability occurred prior to the contract. If a deaf person contracts one of the private insurance companies, for example, the latter will not cover anything related to hearing aids or any therapeutic opportunities that may emerge in the future. (398)

Such a practice, which is predominantly motivated by economic and profit-making reasons that overshadow human rights and the elimination of discrimination, is not only in violation of CRPD's principles and provisions, but it also glaringly violates the provisions of international law, as well as the constitutional principles long recognized among nations.

## ***Practices***

Interviews conducted by the report team with the Directorate of Women and Children at the Ministry of Health, (399) the "Special Needs Unit" at GAM, (400) field visits to many of health facilities inside and outside Amman, as well as an extensive unpublished field study by the North-South Centre for Dialogue (401) in addition to the experiences of shared by stakeholders in the consultative meetings, all confirm an almost complete absence of forms of accessibility in health facilities in general, and in local health centers in particular. Apart from ramps existing at hospital entrances for the purposes of logistics in general, there are significant deficiencies in reasonable accommodation and forms of accessibility within various health facilities.

There is a clear omission of directional signage, and a lack of staff that are fluent in sign language or lip reading to communicate with deaf persons, which often leads to the exclusion of these persons and causes reluctance to use these services, except in cases of extreme necessity. A deaf person shared his experience of being transferred to the emergency department of a hospital, where he was

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396- Consultative meetings in different governorates of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

397- Consultative meetings in the Central region, governorates of Madaba and Amman, to discuss the draft report July 16, 2011

398- Consultative meetings in the Central region, governorates of Madaba and Amman, to discuss the draft report July 16, 2011 and case studies by the team with Persons with Disabilities insured with private companies

399- Interview with Dr. Zakaria Omari, Director of the Directorate of Women and Children, Dr. Munther Ammari, Chairman of Department of Center of Early Diagnosis of Disabilities and Dr. Haitham Saudi, Department of Disabilities, Ministry of Health, October 11, 2010.

400- Interview with Engineer Rana Haddadin, director of the "Special Needs Unit" at Greater Amman Municipality December 4, 2010

401- Obstacles and barriers to the participation of Persons with Disabilities and their inclusion in society, a field study in the environment of Jordan, North-South Centre for Dialogue and Development, 2011



unable to communicate with doctors due to their unfamiliarity with sign language, and the absence of an interpreter at the hospital. The doctors examined him at random, and prescribed medication for the treatment of a disease that he didn't suffer from in the first place. (402) Another deaf person narrated his experience at the department of obstetrics in a hospital, where neither he nor his wife were able to communicate with medical staff to explain what the wife felt or to understand the physician's instructions. (403) Along the same lines, ambulance crews deal with deaf persons in a state of emergency and rescue as "unconscious" persons due to the "impossibility" of communicating with them, as set out in Article (11) of this report.

A more complicated matter concerns pharmaceutical and medical leaflets for persons with visual and intellectual disabilities, and even persons with hearing impairment who do not know how to read, due to these publications not being available in accessible forms, whether Braille or large print or simplified language or indicative pictures. The Pharmacists Union issued "Drug Awareness" Regulations for the year 2008 (404) that regulate the methods for pharmaceutical leaflets and conditions, to include data on drug components, characteristics, effects, and methods of use. These instructions demonstrated that pharmaceutical media must be clear and understandable, and should include illustrations, if necessary. However, the instructions did not refer in any way to accessible designs and reasonable accommodation to ensure access for Persons with Disabilities to the content of the pharmaceutical leaflets.

In the same context, the Public Health Law No. 47/2008, referred to earlier, and instructions issued by the Ministry of Health (405) failed to include any measures regarding the right of Persons with Disabilities to access to information and the content of the health campaigns that various bodies conduct, regardless of its topic, despite the fact that most campaigns on health and prevention generally use pictures and graphics and phrases to get the message across about the central theme, which excludes Persons with Disabilities and fails to fully cover them in this area.

The interview by the report team with the Directorate of Women and Children in the Ministry of Health, referenced earlier, points out that services provided to Persons with Disabilities are mostly concentrated on issuing medical reports as an entry point to many basic services, in addition to what the Center for Diagnosis of Disabilities offers in terms of guidance and referral for cases brought before it. (406) According to the same interview, there is a significant shortage of statistics and data on Persons with Disabilities and the challenges they face in their access to various health facilities.

With the exception of statistical data relating to the Center for Diagnosis of Disabilities, which is limited to recording the names of persons and their cases referred to above, there is still no statistical field study based on a scientific basis that indicates the number of Persons with Disabilities who are actually benefiting for the health services offered to all, especially in remote areas.

However, field inspection and the experiences of those involved in consultative meetings and meetings with the Ministry of Health all show that there is clear exclusion of Persons with Disabilities from health facilities and services in remote areas, due primarily to lack of accessibility and lack of trained

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402- Interview with Mr. Mohammad Tawfiq Ardah, activist with a hearing impairment, about the absence of reasonable accommodation in hospitals July 16, 2011

403- Case study of Mohammad Ardah, from the outputs of the consultative meeting in the Central Region, the governorates of Amman and Madaba, to discuss the draft report on July 16, 2011 in Amman

404- [http://www.pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=3&id=4892](http://www.pm.gov.jo/arabic/index.php?page_type=gov_paper&part=3&id=4892)

405- [http://www.moh.gov.jo/MOH/arabic/rules\\_regulations.php](http://www.moh.gov.jo/MOH/arabic/rules_regulations.php)

406- Interview with Dr. Zakaria Omari, Director of the Directorate of Women and Children, Dr. Munther Ammari, Chairman of Department of Center of Early Diagnosis of Disabilities, Dr. Haitham Saudi, Department of Disabilities, Ministry of Health, 11/10/2010

and qualified medical personnel to deal with disability issues, and the lack of related reasonable accommodation, including methods of effective communication with Persons with Disabilities in general. (407)

This was expressed by 74% of those surveyed through the report's questionnaire, who said that they were not satisfied with the level of health services provided to Persons with Disabilities, due to their inability to access these and benefit from them. (408)

### ***Recommendations for Article (25): Health***

#### ***At the policy and legislation level:***

1. Develop a policy and a national action plan in partnership with Persons with Disabilities and DPOs to regulate the right to health on the basis of the principles of human rights and CRPD, and away from measures for the prevention of disability "and eliminating its occurrence".
2. Include measures concerning the provision of reasonable accommodation and forms of accessibility and the training of medical staff in the Public Health Law and Law No. 31/2007 and laws and regulations of doctors' and pharmacists associations as requirements for the exercising of Persons with Disabilities of their right to health and their equal access to health facilities and services.
3. Issue the Special Regulations for Health Insurance for Persons with Disabilities, in accordance with the provisions of Article (4) paragraph (a) clause (5) of Law No. 31/2007 so that it includes provisions to ensure equality and equal opportunities, and totally prohibit direct and indirect discrimination.
4. Require that private insurance agencies and firms not consider disability as a risk factor, and ensure that relevant texts of laws and regulations invalidate contracts that violate that.

#### ***At the practical level:***

1. Establish a mechanism to monitor and supervise health facilities in the public and private sectors, to verify the application of standards of reasonable accommodation in health facilities and services.
2. Implement a system for data collection, classification, and the issuance of periodic statistical reports showing the number of Persons with Disability who benefit from health services, and evaluate the quality of these services', as well as the fair distribution and extent of effectiveness, especially in remote areas.
3. Develop a guide on reasonable accommodation and forms of accessibility that should be included in the pharmaceutical publications and campaigns that are carried out by different agencies and authorities in the field of health, to ensure access for Persons with Disabilities on an equal basis with others.
4. Organize advocacy and lobbying campaigns for mainstreaming disability issues in the various plans, programs and activities related to health, especially reproductive health, motherhood, childhood and others.

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407- Consultative meetings in different Governorates of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

408- Questionnaire distributed by the team in various Governorates to measure the level of satisfaction with exercise of some rights and accessibility to some services



## **Articles (26):**

# **Habilitation and Rehabilitation**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Legislation, policies and plans relating to Persons with Disabilities have generally tended to link the issues of disability, regardless of its nature and context, with the subject of habilitation and rehabilitation, based on the medical welfare perspective adopted by the executive and decision-making bodies towards disability, as a case of "disease" or "incapacity".

As such, the concept of habilitation and rehabilitation is often oriented towards medical therapy or vocational professional training at best, and relies on the "individual capacity" of a person, regardless of the environmental and attitudinal obstacles that play a key role in the emergence and deepening of the case of disability.

Law No. 31/2007 (409) in Article (2) had two separate definitions of habilitation and rehabilitation of the individual, stipulating "habilitation: service system with multiple components, designed to enable a disabled person to regain or achieve his physical, mental or professional or social or economic abilities up to the level that his capacity allows". This text links "regaining capacity" to what is allowed by the "capacity of the person", a course which no doubt involves a clear contradiction, and puts the concept of habilitation in a vicious circle where it cannot be assessed, as the weakness of habilitation programs and their ineffectiveness will be justified each time by the "capacity of the person". This makes disability a reason for the implementation of these programs as well as an argument for their ineffectiveness when needed.

This approach seems more positive in the legislator's definition of rehabilitation, where the text in the same article reads "rehabilitation: measures, programs and plans which are aimed at recovering, strengthening or maintaining the capacity and skills and their development in the fields of health, employment, education, society or any other area, including achieving equal opportunities and full inclusion of Persons with Disabilities in society and their exercising of all rights and fundamental freedoms on an equal basis with others".

In this definition, the legislator notes the inevitable link between rehabilitation and equalization of opportunities and the full enjoyment of fundamental rights and freedoms by Persons with Disabilities, without any form of discrimination or exclusion. We also noticed in this definition references to education, health and employment in the context of rehabilitation programs' statement of purpose in the broad sense.

In a step forward in the field of national legislation, Law No. 31/2007 included a provision for Community Based Rehabilitation (CBR) programs in Article II, which stipulates "Community Based Rehabilitation: A set of programs within the framework of community development to achieve the habilitation and equality of opportunities and social inclusion of Persons with Disabilities". The value of this text lies in that it puts the CBR programs, which are truly highly effective in remote and poorer areas, in the context of harmony with the principles of CRPD, particularly regarding inclusion and enhancement of participation in the community.

The National Strategy - Phase II included a special section on Habilitation, Rehabilitation and Support Services, with the general objective cited as "that Persons with Disabilities of different categories receive high quality services in the field of habilitation and rehabilitation in all the Governorates." (410) The section did not clarify what is intended by habilitation and rehabilitation, leaving the reference in this case to what is mentioned in Law No. 31/2007 in Article (2), which limits habilitation to mere medical therapeutic services presented from an individual perspective as detailed above. It is noted that this

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409- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

410- National Strategy, Phase II, Section on Rehabilitation and Support Services, p. 50 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

section has attached particular importance to remote and poorer in terms of distribution of programs and habilitation and rehabilitation services, with an emphasis on the need to develop the capacity of local associations to implement these programs.

While recognizing the positive nature of this approach, the National Strategy - Phase II is to be criticized for making the issues of diagnosis, early detection, physiotherapy, occupational therapy, assistive devices and artificial limbs the focus of habilitation and rehabilitation programs, without a clear assertion that the aim of all this must be consolidation of a culture of diversity and acceptance of others. In addition, it should focus on the promotion of the participation of Persons with Disabilities to carry out their role as key partners in decision-making and in the formulation of policies, plans, and programs and the evaluation of these, both at the local and national levels.

Law No. 31/2007 cited medical and psychological habilitation programs in addressing the Right to Health in Article (4) paragraph (a), as well as in the context of regulating the right to work in the same article, paragraph (c) entitled "Vocational Training and Work". Providing vocational training, however, reflects the typical narrow perspective on the right of Persons with Disabilities, which has been associated in the minds of many with crafts or professions that do not require a particular academic qualification.

In the area of "Social Protection", Article (4), paragraph (d) clause (3) notes that "while taking into account the legislation in force, relevant authorities provide for citizens with disabilities, each according to their specialization, the rights and services listed in accordance with the provisions of this law in the following areas: (d) social protection and institutional care: (3): vocational and social habilitation and rehabilitation services, and support services of all kinds to achieve the inclusion and active participation of Persons with Disabilities and their families."

This text clearly pointed out that the goals of habilitation must be directed towards promoting the inclusion and active participation of Persons with Disabilities and their families, which is consistent with the concept of habilitation and rehabilitation programs and support services, as a form of reasonable accommodation aimed to provide an environment free of physical and attitudinal barriers. This is in line with CRPD's principles and general provisions, particularly those mentioned in Article (26) and will contribute to achieving equality and equal opportunities for Persons with Disabilities, without any form of discrimination or exclusion.

The National Center for Human Resources Development <sup>(411)</sup> recently issued a strategy of employment, training, and vocational and technical education <sup>(412)</sup> in which it provided non-detailed indicators on the situation of Persons with Disabilities in the labor market and areas of training as well as vocational, educational, and technical habilitation. It recommended the need to strengthen habilitation programs and activate them in these areas for women and Persons with Disabilities alike, based on the outcomes and the evaluation of results of the National Strategy for Human Development, issued by the Center and approved by the Council of Ministers in 1998.

In fact, the Ministry of Social Development adopts a concept of its own on the issues of habilitation and rehabilitation, focusing on the provision of some welfare services for Persons with Disabilities and some financial assistance to cover part of the costs associated with a person's joining of any institution or professional or social or educational habilitation center within the framework of special education, and under the provisions of the Habilitation and Assistance Regulations No. 102/1971 . <sup>(413)</sup> Sources of information available at the Ministry do not clarify if it is still in effect or whether it has been rendered ineffective and replaced with other instructions or ministerial decisions.

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411- <http://www.nchrd.gov.jo>

412- <http://www.mol.gov.jo/LinkClick.aspx?fileticket=a2QQ5L1BYIM%3d&tabid=258>

413- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=102&year=1971](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=102&year=1971)

In dealing with the issue of habilitation and rehabilitation, both the National Health Strategy (414) and the Strategic Plan of the Ministry of Health (415) dealt with this matter as a form of providing welfare health services, in isolation of the ultimate goal of such services in the area of health. These should eventually lead to promoting the participation of Persons with Disabilities in all walks of life, and achieve equality and equal opportunities for them, as an inalienable unquestionable right in accordance with the principles of CRPD and the constitutional principles, as well as the texts of Law No. 31/2007, and the National Strategy - Phase II section on Health and Disability.

## ***Practices***

Consultative meetings (416) show that there is a substantial shortage of habilitation and rehabilitation in remote areas and in different areas, where lack of qualified personnel and the absence of accessibility and reasonable accommodation play key roles in rendering these already rare programs in those areas ineffective, particularly in terms of content and target beneficiaries.

A group of parents of persons with intellectual disabilities raised the issue of violation of the right of their children to equal access to habilitation and rehabilitation services, given the concentration of these services in the non-governmental sector which provides those services at a very high cost, compared to these families' average income. (417)

In fact, persons who have autism or what some special education workers call "autism disturbance or autism spectrum" face real exclusion and discrimination in the field of habilitation and rehabilitation. This is due to the lack of knowledge and practice in the design and implementation of habilitation programs specialized for this disability, and the high cost of services provided by private centers, whose average cost ranges between JD 200-300 per month. (418)

The Higher Council recently adopted special standards for autism and intellectual disability programs, designed to ensure the effectiveness of these programs and the achievement of social inclusion for beneficiaries. (419) It should be noted that the Higher Council was providing coverage of up to 60% of the cost of enrollment of persons with intellectual disabilities in habilitation and special education centers in the private sector, (420) though financial and administrative challenges led to the contraction of this support in both quantity and quality. This prompted many families to call for a review of their conditions and for working to adopt fair and systematic standards to ensure that their sons and daughters enjoy effective and equal access to programs and habilitation services, pursuant to the provisions of Law No. 31/2007 and the terms of Phases I and II of the National Strategy. (421)

Field visits carried out by the report team to a public care and habilitation center in the South, in addition to some investigative press reports, note that these centers significantly lack habilitation programs in the strict sense, as they face a lack of specialized and qualified staff, as well as accessibility and reasonable accommodation. Their services are limited to shelter and daycare, making the admission of Persons with Disabilities and their stays there useless, or a mere refuge for some families to compensate

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414- [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20Plan\(2006-2010\)%20\\_1.doc](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20Plan(2006-2010)%20_1.doc)

415- [http://www.moh.gov.jo/MOH/Files/National\\_Health/Health%20Strategic%20.pdf.pdf](http://www.moh.gov.jo/MOH/Files/National_Health/Health%20Strategic%20.pdf.pdf)

416- Consultative meeting in the Northern Region for Mafrq Governorate to discuss the draft report on Saturday, July 2, 2011 in Mafrq

417- Consultative meeting in the central region for governorates of Amman and Madaba to discuss the draft report on Saturday, July 16, 2011 in Amman

418- Interview with Suha Tabbal, expert in the field of special education and rehabilitation programs for persons with intellectual disabilities, September 16, 2011

419- <http://www.hcd.gov.jo/arch209.htm>

420- <http://www.hcd.gov.jo/prog5.htm>, <http://www.hcd.gov.jo/prog8.htm>

421- Consultative meeting in the Central Region, the governorates of Amman and Madaba, to discuss the draft report July 16, 2011 in Amman, consultative meeting in the Southern Region, the governorates of Aqaba and Maan, to discuss the draft report July 12, 2011 in Aqaba

for their inability to deal with their children, due to the lack of family support and independent living programs (see Article (19) of this report). Despite that, these centers are crowded with Persons with Disabilities, especially persons with intellectual disabilities. For example the waiting list at the "Center for Habilitation of Disabled Persons" in the Souf Camp in Jerash stands at 720 persons. (422)

Despite the method of peer support being part of the habilitation programs implemented by the Higher Council, the National Strategy - Phase II briefly mention this habilitation method, under the section on "Health and Disability", limiting it to a purely medical concept and noting among activities in this section: "Support for institutions, associations and centers to provide peer support programs at hospitals and diagnostic centers" (423).

There is no doubt that restricting the scope of the method of peer support in this way, and limiting it to medical institutions, demonstrates confusion and ambiguity in understanding this method as a means of effective community habilitation to promote inclusion and acceptance of a culture of diversity, not just a method of psychiatric treatment carried out by hospitals and diagnostic centers.

### ***Recommendations for Article (26): Habilitation and Rehabilitation***

#### ***At the policy and legislation level:***

1. Add to Law No. 31/2007 comprehensive and clear provisions on the right of Persons with Disabilities to habilitation and rehabilitation, guided by the principles of CRPD and as provided for in Article (26), as well as amend the definition of habilitation set out in Article (2) of this Law and adopt the holistic definition of the state of disability that is distanced from the individual medical perspective.
2. Include in the Human Resources Development Strategy and Occupational, Training and Vocational Education, and Technical Strategy, clear and precise data and indicators on the status of Persons with Disabilities in terms of exercising their right to training and habilitation programs in the areas of education, health, and work, and the extent of their access to and utilization of social services available to all.
3. Review and modify the section on "Health and Disability" in the National Strategy - Phase II and adopt clear and comprehensive definitions of habilitation and rehabilitation, and develop programs, activities and expected results based on these definitions.

#### ***At the practical level:***

1. Undertake advocacy campaigns and lobbying on the part of Persons with Disabilities, their families and DPOs to adopt a new philosophy based on CRPD's principles in the field of habilitation and rehabilitation, and to promote and develop services of different habilitation centers in order to achieve equality and equal opportunities for Persons with Disabilities without any form of discrimination.
2. Provide high-quality habilitation and rehabilitation programs for persons with intellectual disabilities and persons with autism, in particular, in line with internationally-accepted standards, by analyzing internationally applied best practices.
3. Organize advocacy campaigns and lobbying by Persons with Disabilities, their families and DPOs, in order to push the State to deal with habilitation and rehabilitation programs as one of the requirements for Persons with Disabilities to practice their rights and basic freedoms and provide these programs and services at a modest cost that is similar to that of social services available to all, whether provided by public centers and institutions or private institutions.

422- <http://www.alghad.com/index.php/article/201298.html>

423- National Strategy, Phase II, Section on "Health and Disability", p. 48 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

## **Articles (27):**

# **Work and Employment**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Law No. 31/2007 tackled the right of Persons with Disabilities to work in its Article (4), paragraph (c), which stipulates in Clause (2) that "Persons with Disabilities have equal opportunities in employment, commensurate with academic qualifications"<sup>(424)</sup>. The legislator then cited in item (4) of the same paragraph, the obligation of the employer to provide reasonable accommodation, pursuant to the requirements of the same law in Article (3) paragraph (f), which considered the issue as one of the general principles underlying the law, and as such, must be reflected in the rest of its provisions.

The right to work for Persons with Disabilities would not have been a problematic issue had the legislator stopped at these texts and chose not to deepen discriminatory practices faced by Persons with Disabilities in the work sector. For decades, legislations did not take note of environmental and attitudinal barriers, despite them visibly impacting and violating the right of Persons with Disabilities to work, discriminating against them, and thereby excluding them from the labor market.

The Jordanian legislator adopted the truncated percentage approach or the so-called quota as a means to ensure the minimum for Persons with Disabilities to have the right to work in the public and private sectors, stipulating in Article (4) of Law No. 31/2007 paragraph (c) clause (3) to «compel public sector institutions and private companies where the number of employees is no less than 25 workers or more than 50 to employ one Person with Disability. If the number of employees is more than 50 workers, then 4% of the number of workers is allocated for Persons with Disabilities, provided the nature of the work allows for it".

Prior to analyzing this text, it should be noted that, regardless of the sector, the quota constitutes an exceptional means to promote and accelerate equality in their exercising of the right or freedom. This is adopted by CRPD in its Article (5), which stated in paragraph (4) that "what special measures are taken to accelerate the achievement of equality is not a form of discrimination". Quota is thus a special measure that does not narrow the scope of right and practice. In other words, the percentage guaranteed by the quota is the minimum that should be maintained under any circumstance. However, it is striking that the right of Persons with Disabilities to work has become closely associated with this ratio, as if by achieving this ratio, the rights of Persons with Disabilities and the state's obligation to employ citizens with disabilities are then realized.

As to the quota referred to above, the text notes that it is applied "provided that the nature of work allows for it". In fact, this condition is not limited to the implementation of the quota, but extends to the employment of Persons with Disabilities and to employment in general, whether in the public or the private sector. Since Law No. 31/2007 as well as Labor Law No. 8/1996 <sup>(425)</sup> and its amendments did not specify an authority or guidelines to achieve the restriction "that the nature of work allows employing a Person with a Disability", the reference will always be the authority of the doctor and the discretion of the medical examination and diagnosis. This unprecedented absolute authority is given to doctors in deciding the fate of Persons with Disabilities and whether they exercise their rights and freedoms on an equal basis with others.

The Medical Committees Statute No. 58/1977 <sup>(426)</sup> noted conditions to be met in the one seeking employment in the public sector, where Article (13), paragraph (a) of these regulations states that "applicants for employment must meet conditions set out in Annex (1) and should have the degree of visual acuity as stated in Annex (2)". Paragraph (c) of the same article notes that "the incidence of having a disease listed in Annex No. (3) prevents accepting the applicant in a job". Returning to the annexes of the Medical Committees Statute <sup>(427)</sup>, we find that they have completely excluded Persons with Disabilities from holding jobs, in a discriminatory legislation that is rarely seen anywhere else in the world.

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424- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

425- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=8&year=1996](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=8&year=1996)

426- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=58&year=1977](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=58&year=1977)

427 [http://www.moh.gov.jo/MOH/Ar/rules\\_regulationsdetails.php?ruleid=148](http://www.moh.gov.jo/MOH/Ar/rules_regulationsdetails.php?ruleid=148)



Annex No. (1) which is referred to in paragraph (a) of Article (13) of these Regulations provides for "the conditions to be met by the applicants: 1. A sufficient degree of intelligence; 2. good hearing ability and not having any ear diseases that may prevent from doing the job; 3. good eyesight and lack of disease that can affect job performance; 4. good speech; 5. good bodily structure; 6. healthy heart and lungs; 7. good ribcage that is free of defective distortions; 8. safety of the limbs, spine and joints and them being devoid of defects that may affect work; 9. good teeth, whether natural or artificial". Annex (3), referred to by paragraph (c) of Article (13) of the same regulations, lists the diseases that may prevent employment of the person including blood, heart and respiratory system diseases. Others noted by this Annex include neurological disability and psychosocial and intellectual disability, where the text notes "diseases which deny a job applicant: ... 14. epilepsy; 15. mental diseases".

It is perhaps clear the extent of exclusion and discrimination enshrined in these provisions against persons with visible and invisible disabilities, in one of the most important human rights that is ensured in the texts of international laws, as well as constitutional principles, as a right to be enjoyed and exercised by all, without any form of discrimination.

The question then arises about the mechanism by which some Persons with Disabilities obtain jobs, which are prohibited to them by the Medical Committees Statute. Article (16) of the Regulations notes that "the minister or concerned head of department, with the consent of the Minister of Health, can appoint an applicant even though he does not fit the criteria from a health point of view, provided his disability does not conflict with the nature of the work. b: the person is appointed for a temporary period of three years, and the minister or head of the department concerned can permanently extend his service with the consent of the Minister of Health, if the opinion of the Central Medical Committee confirms that his health has not changed and does not affect his performance and job" (428).

The appointment of Persons with Disabilities to a job is therefore based on an extraordinary decision by the Committee or relevant minister, which confirms the exclusion of Persons with Disabilities from the right to work in the first place, and that their employment in certain jobs is a restricted exception with the condition "that the disability does not contradict with the nature of the work", and that the appointment is temporary, according to the above-mentioned text.

The unacceptable discriminatory language used by the legislator in this text against Persons with Disabilities is a result of the adoption of a purely medical approach in dealing with disability issues. This has established doctors as the gateway for the access and exercising of rights and enjoyment of freedoms, as it gives them the authority superior to even the Constitution which guaranteed equality to all citizens and equal opportunities without discrimination or exclusion.

The Civil Service Regulations No. 30/2007, as amended (429), which regulate the recruitment and appointment to state jobs, also adopt this approach where the text in Article (43) outlines the conditions for holding public office, and notes that "whoever is appointed in any position to be: ... c. free of disease and physical and mental disabilities that would prevent him from carrying out the job he is appointed to under the decision of the appropriate medical authority. However, a Person with a Disability might be appointed provided his disability does not prevent him from carrying out the function that he will be appointed to, upon a certificate from an appropriate medical authority".

In fact, these regulations do not only violate the provisions of CRPD and the principles of the Constitution and international law, but also contradict and violate what is noted in its general principles set forth in Article (4), which observes that equal opportunities, non-discrimination and merit constitute some of the most important foundations and pillars on which it is based, and may not be violated under any circumstance. (430) Again, this text refers to the certification of the medical reference of the Medical

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428- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=58&year=1977](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=58&year=1977)

429- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=30&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=30&year=2007)

430- Civil Service Regulations No. 30/ 2007, Article 4 [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=30&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=30&year=2007)



Committees Statute, referred to earlier, as a constitution and platform, including the exclusionary and discriminatory restrictions that should be revoked and disposed of without delay.

One would not expect such discriminatory legislative context to produce plans that would strengthen the right of Persons with Disabilities to work and achieve equal opportunities in practice and equal access to related programs and activities.

Persons with Disabilities and their right to work had a brief mention in the Ministry of Labor's strategic plan for 2010 -2012, <sup>(431)</sup> where there were sporadic general phrases, without any reference to reasonable accommodation and environmental accessibility and universal design, as priorities and requirements for their exercising of this right on an equal basis with others. However, it should be noted that the National Strategy for Employment <sup>(432)</sup> in the process of demonstrating the impact of supply and demand factors in the labor market, specifically the determinants of supply, had noted that Persons with Disabilities face real difficulties in exercising their right to work, largely because of the absence of mechanisms for activating and applying relevant legal texts.

The strategy suggested a number of measures in training and awareness-raising and media, which should be implemented with coordination between the Ministry of Labor, the Vocational Training Corporation, the Ministry of Social Development, the Social Security Corporation, the Higher Council and non-governmental organizations, in order to bolster the participation of Persons with Disabilities in the labor market, through vocational training skills, raising community awareness, and developing an information system and database about Persons with Disabilities in the labor market and their "needs", including programs offered to serve them in this regard.

Moreover, the National Strategy - Phase II included a number of measures for economic empowerment <sup>(433)</sup> aimed to promote the practice of Persons with Disabilities of their right to work, through the activation of the legal texts and the provision of reasonable accommodation and accessible environment. These strategies are criticized for referring the strengthening of the right of Persons with Disabilities to work, to the activation of current legislative texts, which are, rightly, the root of the problem of exclusion. They comprise the provisions of referral to medical commissions and reports, totally lacking a holistic view of the state of disability, as the product of overlap and interaction of several factors and barriers, where attitudinal and environmental impediments play a key role in its inception and growth.

The lack of statistics and data and information is the biggest concern and principal barrier to assessing the legislative reality and policy, and to bringing about change and real transformation in this area, including strengthening the right of Persons with Disabilities to work on the basis of equal opportunities and non-discrimination, which prompted the national policy-makers to emphasize this issue in the Strategy of Employment, Training, Vocational and Technical Education <sup>(434)</sup>, as well as the National Employment Strategy and the National Strategy - Phase II, as referred to above.

In the absence of statistics, it is difficult to talk about the reality of women with disabilities, and the extent of discrimination they face in the labor market on the basis of gender, disability, and perhaps geography if they are residents of remote areas. However, personal experiences <sup>(435)</sup> indicate that there is a distinct and compound discrimination faced by women with disabilities, and they have less access to habilitation services, training and education in general, as set out in Articles (6) and (24) of this report.

The National Strategy for Jordanian Women for the years 2006-2010, issued by the Jordanian National Commission for Women (JNCW) <sup>(436)</sup> did not provide effective measures to promote the rights of women with disabilities, and ensure their right to work on the basis of equal opportunities and equality with others.

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431- <http://www.mol.gov.jo/Portals/0/Mol%20Strategy/mol%20strategy2010-2012.pdf>

432- <http://www.mol.gov.jo/Default.aspx?tabid=354>

433- National Strategy, Phase II, Section on Economic Empowerment, p. 65-67 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

434- <http://www.mol.gov.jo/LinkClick.aspx?fileticket=a2QQ5L1BYIM%3d&tabid=258>

435- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

436- National Strategy for Jordanian Women 2006-2010, issued by the JNCW

This strategy stipulated in the area of employment "to facilitate the inclusion of women with special needs in different areas of work as much as possible, consistent with the nature of their own needs." (437) We notice that the Strategy adopted the individual medical welfare approach that is prevalent in the system of national legislation, whether in laws, regulations or instructions, as that is evident from the use of discriminatory phrases and subjective limitations, such as "as much as possible" and "without contradicting with their needs".

When analyzing legislation and policies governing the right to work, we must note that non-governmental and private sector institutions, regardless of their nature and scope of activities, adopt the discriminatory philosophy in regulations and internal instructions as set by the national legislator and policy-makers and the executive bodies with regard to the employment of Persons with Disabilities, and allowing for their arbitrary dismissal on the basis of subsequent disability. This is noted in the text of Human Resources Management instructions at NCHR, which stipulate in Article (22), paragraph (a) that "the employee's service ends in any of the following cases: ... lack of fitness" (438).

Legislative texts governing the functions of trade unions also prevent Persons with Disabilities from joining, due to the adoption of the same perspective of dealing with the case of disability. For example, Article (10) of the Law of the Engineers Association No. 15/1972 (439) and (8) of the Lawyers Association No. 11/1972 (440) requires that for registration in these two unions and practicing the professions, the member must "enjoy full legal capacity". The prevailing discriminatory legislative philosophy that diminishes and in some cases eliminates the legal capacity of Persons with Disabilities in general and persons with psychosocial and intellectual disabilities in particular, as set out here in Article (12), describes the extent of exclusion and discrimination faced by these persons, the violation of their right to join such unions and to enjoy the guaranteed safeguards, as well as the benefit from their services and most importantly, to be allowed to practice their respective profession.

It is important to note that 52% of those surveyed in the report team questionnaire noted that equal opportunities for Persons with Disabilities are generally non-existent in the work environment. (441)

## ***Practices***

According to the interview conducted by the report team with the Vocational Training Corporation, there are steps that the Corporation would like to take in order to promote access for Persons with Disabilities to programs and services available to all. In this regard, the Corporation has adapted seven centers for persons with physical disabilities in different governorates, in addition to training nearly 200 Persons with Disabilities from both sexes annually on manual and technical professions, such as the maintenance of electronic equipment and furniture, as well as crafts and food industries. (442)

The strategy for the Vocational Training Corporation (443) included a special project to train Persons with Disabilities and making infrastructure accessible at vocational habilitation centers, in line with requirements for its access and use. A JD 210,000 budget was allocated for this project at the start of 2009 and ending in 2011.

As for habilitation centers and employment centers of Persons with Disabilities that are affiliated with the Ministry of Social Development, they provide vocational habilitation services for persons with

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437- National Strategy for Jordanian Women 2006-2010, p. 32-33, Area of Special Needs, JNCW

438- Human Resources Management instructions <http://www.nchr.org.jo/Arabic.aspx>

439- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=1972&no=15](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1972&no=15)

440- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=11&year=1972](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972)

441- Questionnaire to measure content of stakeholders in enjoying rights and access to basic services designed by the report team and distributed in various Governorates of the Kingdom

442- Interview with Khamis Ahmad, Vocational Training Institute, January 24, 2010

443- [http://www.vtc.gov.jo/vtc%20-%20final%20-%20Sept%20%2022%20-%2008%20\(2\).htm](http://www.vtc.gov.jo/vtc%20-%20final%20-%20Sept%20%2022%20-%2008%20(2).htm)

hearing impairment and persons with mild and moderate intellectual disabilities through two major centers in the Zarqa and Irbid Governorates, where persons are trained on traditional handicrafts (carpentry, blacksmithing, leather, etc). It should also be noted that the number of girls and women with disabilities that receive training seems low compared to the number of males, according to the limited statistical data available. (444) The interview conducted by the report team with those responsible for the habilitation programs in these centers, notes that persons with visual disability are not accepted, claiming the absence of appropriate programs to benefit them, which reflects the limitations of these programs and the exclusion of a large segment of Persons with Disabilities. (445)

The "Labor Watch" report issued by the Phenix Center for Economic Studies and Informatics in December 2009 entitled "Employment of Persons with Disabilities in Jordan: Big Ambitions and Difficult Reality" (446) revealed a tremendous decrease in the percentage of Persons with Disabilities that are employed and rising unemployment amongst them, where the percentage of workers with disabilities is 12% of the total number of Persons with Disabilities, for which there are no accurate statistics determining their number, as set out in Article (31) of this report.

The Labor Watch noted a dramatic decline in the percentage of Persons with Disabilities benefiting from soft loans program to finance small projects, as the number of beneficiaries of loan programs in the Development and Employment Fund did not exceed 20 persons, since assuming its duties in 1991, while the number of beneficiaries of direct loans reached 1,419 beneficiaries in 2009 alone, according to the Fund's "Indicators of Achievement for the First Quarter - 2009" (447). These figures indicate the extent of exclusion and violation of the economic rights of Persons with Disabilities, for whom flexible lending plans and programs need to be developed, taking into account the environmental accessibility and reasonable accommodation requirements in any operational or production project that a Person with a Disability wants to design and implement.

In fact, the culture of shame and unfair social traditions push many Persons with Disabilities, especially women, to not disclose what harassment or direct discrimination they experience in employment or training and habilitation institutions. However, the experiences of those involved in consultative meetings refer to discriminatory practices, starting with the belittling of the person's ability, attempting to isolate them, not assigning them real functional tasks, and possibly ending with arbitrary dismissal on the basis of disability. (448)

The results of the report team questionnaire show that the overwhelming majority of those Persons with Disabilities and the DPOs surveyed believe that there is a significant shortfall in accessibility, equal opportunities and legislative measures that would allow them access to work opportunities on an equal basis with others. (449)

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444- <http://handicapped.awardspace.com>

445- Interview with Mohammad Qaryuti, assistant for issues of Persons with Disabilities, and Mohammad Abu Leil, director of Habilitation and Employment Center, Ruseifa, February 27, 2011

446- [http://www.labor-watch.net/files/2011/Employment\\_for\\_Disabled\\_People\\_in\\_Jordan.pdf](http://www.labor-watch.net/files/2011/Employment_for_Disabled_People_in_Jordan.pdf)

447- [http://www.def.gov.jo/RichTextBoxFiles/File/enjaz\\_4\\_2009.pdf](http://www.def.gov.jo/RichTextBoxFiles/File/enjaz_4_2009.pdf)

448- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

449- Questionnaire to measure the content of stakeholders in enjoying rights and access to basic services designed by the report team and distributed in various Governorates of the Kingdom

## ***Recommendations for Article (27): Work and Employment***

### ***At the policy and legislation level:***

1. Abolish the Medical Committees Statute No. 58/1977 as the legislative basis for the requirement of "medical fitness" and cancel the medical reports requirement as a reference in determining the appointment or refusal of a person with a disability in a job. Instead replace that by professional reports issued by a team specialized in human rights and disability issues, indicating the type of required reasonable accommodation and the forms accessibility in the job that one applies for, provided Persons with Disabilities and DPOs have a strong and effective participation in this team.
2. Add to the Labor Law and the Law No. 31/2007 texts requiring that any job advertisements and applications that list "medical fitness and being free from disabilities" as void condition requiring cancellation.
3. Take out the terms "as permitted by the disability," or "as allowed by the nature of the work," or "if work does not contradict with the disability," and others, wherever they appear, in any law or regulation, or instructions or decisions, strategies or plans, regardless of their nature and the issuing authority.
4. Include in the strategies of the Ministry of Labor, the Human Resources Development Center, and the Higher Council clauses and measures to enhance the right of Persons with Disabilities to employment and to vocational, educational and technical training, in an environment free of obstacles and barriers to achieve equal opportunities and equality in this area.
5. Issue executive regulations to ensure the application of the text of item (4) of paragraph (c) of Article (4) of Law No. 31/2007 related to compelling the employer to provide reasonable accommodation for Persons with Disabilities and to consider the employer's refusal to comply as discrimination requiring accountability and redress.

### ***At the practical level:***

1. Develop a system for data collection and for the generation of accurate statistics on the extent of access of Persons with Disabilities to the labor market, and monitoring direct and indirect violations and discrimination which may be exercised against them, including the failure to provide reasonable accommodation and the forms of accessibility necessary to provide a work environment free of barriers.
2. Produce a guidebook on the requirements and forms of reasonable accommodation for the various jobs and the sources for obtaining them.
3. Design programs to extend soft loans that take into account the requirements of reasonable accommodation in operational and production projects that Persons with Disabilities seek to conduct and fund.
4. Review and modify programs and services implemented and provided by the Vocational Training Institute and habilitation centers affiliated with the Ministry of Social Development and make them accessible to all Persons with Disabilities, without the exclusion of any particular disability.
5. Organize advocacy campaigns and lobbying on the part of Persons with Disabilities and DPOs, to ensure a material and legislative environment in various areas, especially remote ones, that ensures equality of opportunities and equality for Persons with Disabilities, particularly for women with disabilities.

## **Articles (28):**

# **Adequate Standard of Living and Social Protection**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The study conducted by the government on the state of poverty in Jordan in 2007 <sup>(450)</sup> had a short reference under the Training and Employment Programs that the government intends to undertake for Persons with Disabilities that stated "focus on the habilitation and employment of poor young persons, especially school dropouts and those with special needs through the provision of training and habilitation programs to include them in the labor market".

As for the field of education and health, which constitute the most important social services, the study did not provide specific measures for Persons with Disabilities, although it provided a reasonable space for the analysis of the deficiencies and the steps to be taken in order to direct these services towards the reduction of poverty averages in general.

A comprehensive analytical study of the reality of poverty in Jordan between the years 1973-2010 <sup>(451)</sup> by the Social Solidarity Coordination Commission <sup>(452)</sup> monitored the evolution and change to the poverty line, as well as development indicators and the impact of programs and steps taken during that period to reduce poverty rates. The study does not show any noticeable change in this regard, compared to the study undertaken by the government in 2007, referred to above. However, the Poverty Indicators Report in 2009 <sup>(453)</sup> referred to the "Care for Disabilities Program", which shows slow progress in the growth rate and limitations in addressing the major obstacles that hinder Persons with Disabilities' access to social services.

A general principle of Law No. 31/2007 Article (3) paragraph (h) requires that "inclusion be in the various walks of life and at various levels, including the mainstreaming of Persons with Disabilities and their issues in comprehensive development plans." <sup>(454)</sup> It is clear from the context of different Articles in this report, especially Articles (6, 7, 23, 24, 25, 26, 27) that the strategies and executive plans of the ministries and the various bodies did not contain specific and adequate measures on the rights and issues of Persons with Disabilities, with the exception of a few scattered references based on the special need and welfare approach and not within a comprehensive inclusive development framework that guarantees effective and equal access for Persons with Disabilities to social services available to all.

The National Strategy - Phase II in the section on Family Empowerment and Social Protection outlined the so-called national priorities and made training and habilitation services, education and housing exemptions, and the supervision of these, a priority for the years 2010-2015. <sup>(455)</sup> In fact the issue of exemptions raises a real and serious problem with regard to the right of Persons with Disabilities to access social services available to all. Stakeholders and decision-makers alike look to the issue of exemptions, especially the exemption of vehicles intended for use by Persons with Disabilities, as an added advantage and not a special measure that addresses, on a temporary basis, the shortcomings and deficiencies in carrying out the state's obligations regarding providing environmental accessibility and reasonable accommodation. This will lead to disregarding material environmental constraints by both parties, contributing to the belief that securing private vehicles at low prices is an aim by itself and

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450- [http://www.pm.gov.jo/images/governemnt\\_paper.doc](http://www.pm.gov.jo/images/governemnt_paper.doc) Analytical study of the reality of poverty in Jordan. Results and recommendations 1973-2010, Social Solidarity Coordination Commission

451- <http://www.ccss.gov.jo/images/3333.pdf>

452- [http://www.ccss.gov.jo/index.php?option=com\\_frontpage&Itemid=1&lang=arabic](http://www.ccss.gov.jo/index.php?option=com_frontpage&Itemid=1&lang=arabic)

453- Poverty Indicators Report in 2009, Social Solidarity Coordination Commission <http://www.ccss.gov.jo/images/12121.pdf>

454- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

455- National Strategy, Phase II, Section on Family Empowerment and Social Protection, national priorities, p. 68; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>



a manifestation of commitment. This trend was clearly reflected clearly in discussions of this issue at the first National Conference for the evaluation of the National Strategy - Phase I, organized by the Higher Council at the end of 2009 <sup>(456)</sup> and in the various consultative meetings. <sup>(457)</sup>

Law No. 31/2007 paragraph (f) of Article (4) mentions the issue of customs and tax exemptions for vehicles and reasonable accommodation. There is no doubt that exempting reasonable accommodation from tax and customs duties will contribute to a large extent, to removing many of the environmental constraints that prevent Persons with Disabilities from accessing various social services and benefitting from them in an effective and equal manner. However, up until the publication of this report, special regulations for these exemptions had not been activated yet, five years after issuing the above law and publishing it in the Official Gazette.

With regard to access of Persons with Disabilities to drinking water, data from the Ministry of Water and Irrigation of Jordan indicate that amounts of water provided to individuals in general is very limited, as the average obtained by the individual in Jordan does not exceed 160 cubic meters per year, which is less than one third of the water poverty line set internationally at 500 cubic meters. The data also suggests that drinking water covers 97% of urban areas and 83% of the remote areas <sup>(458)</sup> as well as the Ministry's plan <sup>(459)</sup> and its annual reports <sup>(460)</sup> are completely devoid of any sign or measures to ensure effective and equal access to services for Persons with Disabilities. In light of major weaknesses in accessibility for Persons with Disabilities, as set out in Article (9) of this report, the extent of exclusion these persons face in accessing clean drinking water that is available to all is clear.

The strategic plan and the governing legal texts for the General Public Housing and Urban Development Institution <sup>(461)</sup> which implements and monitors housing projects for low income people do not include any measures about Persons with Disabilities in terms of ensuring access to housing and adapting them according to the criteria of the Building Code Requirements, which makes chances for Persons with Disabilities to benefit from housing projects and programs in general much less than others.

With regard to social security for Persons with Disabilities, the medical reference remains the basis for the identification of beneficiaries, according to the rules and standards for the rate of "disability", as described by the Social Security Law No. 7/2010 and its annexes. <sup>(462)</sup> In all, it can be said that Persons with Disabilities are under the same conditions that govern everyone, in terms of work-related injury and the nature, degree and extent of their impact on "a person's ability" to work. The law puts the same conditions and controls for the disbursement of pension to persons who have "disability" in whole or in part, all determined based on the discretion of the medical authority, which also determines the "ability" of a person to do something, regardless of the environmental and attitudinal obstacles and reasonable accommodation necessities, the same approach for which Article (27) of this report notes shortcomings and disadvantages.

With regard to elderly persons with disabilities, NCFA recently published the National Strategy for the Elderly <sup>(463)</sup> which included several components, none of which are specifically allocated for older

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456- <http://www.hcd.gov.jo/conf.htm>

457- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

458- <http://www.mwi.gov.jo/sites/ar-jo/DocLib/>

%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D8%A7%D8%AA%20%D8%A7%D9%84%D9%85%D8%A7%D8%A6%D9%8A%D8%A9  
/D8%B3%D9%8A%D8%A7%D8%B3%D8%A9%20%D9%85%D8%B1%D8%A7%D9%81%D9%82%20%D8%A7%D9%84%D9%85%D9%8A%D8%  
A7%D9%87.aspx

459- <http://www.mwi.gov.jo/sites/ar-jo/default.aspx>

460- <http://www.mwi.gov.jo/sites/ar-jo/DocLib2/Forms/AllItems.aspx>

461- Housing Regulations, No. 26/ 1970 <http://www.hudc.gov.jo/node/278>

462- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2010&no=7](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2010&no=7)

463- <http://www.ncfa.org.jo/Portals/1/Publications/eldery%20strategy%20ar.pdf>

Persons with Disabilities. However, the strategy noted the surrounding physical environment as a major factor and provided assistive devices and tools to support the elderly. (464) In this regard, it must be noted that there is potential confusion which may arise in some elderly persons and others with disabilities who require resources and reasonable accommodation that go beyond the tools and assistive devices that support the enjoyment of rights and freedoms and access to services available to others. Also, neither the National Strategy nor Law No. 31/2007 includes measures for elderly persons with disabilities.

## ***Practices***

The previously mentioned study on poverty in Jordan (465) shows that poverty rates have remained unchanged for years and that an estimated number of 21 areas can be classified as poverty pockets in Jordan with the poverty rate in these areas ranging between 25% and 73%. The study showed that poor people's access to social services, especially in remote areas is beset by obstacles and hurdles that makes this wide citizen sector less able than others to benefit from health services.

On the other hand, field visits and consultative meetings organized by the report team indicate that Persons with Disabilities face compounded discrimination in remote areas, on the basis of disability and geographical distance (466) where specialized services and access to social services in general are diminished. This is to the extent of complete absence in some of these areas, such as Northern Badia in Mafrq and Dleil in the Governorate of Zarqa in the East, and the Tafleh and Ma'an Governorates in the South. Many Persons with Disabilities and their families are forced to travel long distances in order to access habilitation, training or special education centers, facing many troubles due to inaccessible and expensive transportation, compared with the average income in these areas. (467)

In the area of the right to housing for Persons with Disabilities, a group of stakeholders (468) voiced strong dissatisfaction with the executive bodies' disregard for the National Building Code standards in housing projects in general, especially those projects which have been recently launched after the publication of Law No. 31/2007 and CRPD in the Official Gazette. This includes the project "Decent Housing for Decent Living", which aims to afford 100,000 citizens with limited income the opportunity to own their own homes, during a period of time not exceeding 5 years. (469)

In the area of access to drinking water, it is noted that Persons with Disabilities, are not targeted in projects and campaigns to raise awareness of the need to rationalize water consumption, and how to obtain water and maintain its sources. A presentation by one of the international agencies implementing such projects (470) revealed a need to mainstream disability issues and reasonable accommodation and accessibility to ensure access for Persons with Disabilities to clean water and to train them on how to conserve it and rationalize its consumption.

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464- National Strategy for the Elderly, National Council for Family Affairs, 2008, p. 27 <http://www.ncfa.org.jo/Portals/1/Publications/eldery%20strategy%20ar.pdf>

465- [http://www.pm.gov.jo/images/governemnt\\_paper.doc](http://www.pm.gov.jo/images/governemnt_paper.doc)

466- Consultative meeting in the Northern Region for the governorates of Irbid and Mafrq to discuss the draft report on June 25, 2011 in Irbid, July 2, 2011 in Mafrq, as well as consultative meetings in the Southern Region for the governorates of Aqaba and Karak on July 12, 2011 in Aqaba and July 13, 2011 in Karak

467- Panel discussion with 250 activists and representatives of DPOs and service providers, on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

468- Consultative meeting in the Northern Region, Governorates of Irbid, to discuss the draft report on June 25, 2011 in Irbid, <http://www.hcd.gov.jo/conf.htm>

469- <http://www.hudc.gov.jo/mob/node/42>

470- Presentation by Mercy Corps at a forum with activists and representatives of DPOs and donors in cooperation with the Civil Society Program and Mobility International USA, March 1, 2010



We note in this regard that Persons with Disabilities and DPOs do not deal with mainstreaming as a priority issue because it is rarely put forth for discussion. The discussion forum organized in March 2010 by the Civil Society Program and Mobility International USA with 60 activists with disabilities and DPOs, as well as international bodies working in the field of disability, was the first forum at which this issue was raised for discussion with stakeholders, who acknowledged that they had not been working to mainstream disability in such programs.

Many associations and organizations working in the disability field noted that the provision of food to members and affiliates, particularly during the month of Ramadan and holidays, is at the top of their priorities and most depend entirely on donations from businessmen, individuals and institutions. This reflects the absence of systematic plans to organize and secure food for Persons with Disabilities who fall below the poverty line on the basis of sustainable development.

With regard to financial support from the National Aid Fund for Persons with Disabilities and their families, as indicated in Article (24) of this report, it is noted that for a person and his family to receive a monthly subsidy, a medical report is needed confirming that the beneficiary has a severe mental disability or severe "cerebral palsy" or multiple disabilities, as per the "cash assistance for care of disabilities" program implemented by the Fund (471). This enables them to obtain a very low monthly payment, compared to the high prices and the absence of environmental accessibility and poor access to social services, especially in remote areas, as detailed above. Indeed, the value of the monthly recurring aid is JD26 (\$37) per person and in any case the amount of aid granted to a family shall not exceed JD 156 (\$223) per month, regardless of the number of family members. (472)

With regard to elderly persons with disabilities, a study conducted by the Ministry of Health in collaboration with several bodies in 2009 (473) showed that the incidence of disability among the elderly in Jordan reaches 11%, with physical disabilities being the highest and reaching 43% of the total occurrence of disabilities, followed by multiple disabilities at 16%, and visual disability at 15%, then hearing impairment and speech disability at 10%. The study did not explain how relevant authorities deal with elderly persons with disabilities but these percentages indicate an overall deterioration of social services, particularly health services, for the elderly in general, and for Persons with Disabilities in particular.

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471- [http://images.jordan.gov.jo/wps/wcm/connect/gov/\\$\\$!941/\\$\\$!946/\\$\\$!1090/\\$\\$!894](http://images.jordan.gov.jo/wps/wcm/connect/gov/$$!941/$$!946/$$!1090/$$!894)

472- <http://images.jordan.gov.jo/wps/wcm/connect/gov/%24%24%21%21941/%24%24%21%21946/%24%24%21%211090/%24%24%21%21943/%24%24%21%214147>

473- [http://www.addustour.com/PrintTopic.aspx?ac=/LocalAndGover/2009/07/LocalAndGover\\_issue642\\_day11\\_id157893.htm](http://www.addustour.com/PrintTopic.aspx?ac=/LocalAndGover/2009/07/LocalAndGover_issue642_day11_id157893.htm)

## ***Recommendations for Article (28): Adequate Standard of Living and Social Protection***

### ***At the policy and legislation level:***

1. Mainstream disability issues relating to social services in the policies, strategies and plans of the various authorities, each according to its specialization, with the participation and involvement of Persons with Disabilities and DPOs.
2. Include in Law No. 31/2007 and the National Strategy measures and provisions to ensure access for Persons with Disabilities, especially in remote areas, to the social services available to all without exclusion or discrimination.
3. Review the provisions of the law of the Social Security Corporation and the law of the National Aid Fund and its regulations and instructions, so that the power of the medical authority is limited to determining whether a person is eligible to access the service and obtain it, and develop a multi-disciplinary evaluation that considers the impact of environmental and attitudinal constraints in the emergence and continuity of the disability.
4. Add to the National Strategy for the Elderly as well as the National Strategy a special component on Persons with Disabilities, with the involvement and participation of both them and DPOs, so that this section includes measures to achieve equality and equal opportunities and effective access to the services available to all, within the framework provided by CRPD and awarded through its general principles.

### ***At the practical level:***

1. Organize advocacy and lobbying campaigns on the part of Persons with Disabilities and DPOs, in order to ensure that the National Building Code's environmental accessibility standards are applied to public and private housing projects, pursuant to the provisions of paragraph (e) of Article (4) of Law No. 31/2007.
2. Ensure that the Ministry of Water and Irrigation and the Ministry of Public Works and Municipalities as well as GAM allow easy and safe access of Persons with Disabilities to drinking water, free of obstacles and barriers, and include in the water outreach and awareness programs carried out by governmental and non-governmental agencies measures to ensure that Persons with Disabilities have access to their knowledge and skills content and are able to participate in their activities and evaluation.
3. Work so that charitable associations and organizations working in the disability field change their philosophy and develop their institutional capacities, with the aim of managing and financing small production and operational projects for Persons with Disabilities and their families, especially in poverty pockets, rather than fundraising for the distribution of festive food parcels with temporary impact and effect.
4. Develop an accurate and transparent database about the census of Persons with Disabilities, with classification of age, gender and geographical and poverty pocket distribution, and the proportion of the elderly among them, as well as the extent of everyone's effective and equal access, particularly that of women with disabilities, to social services in remote areas in particular.

## **Articles (29):**

# **Participation in Political and Public Life**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

National legislation governing participation in political and public life in Jordan provides some of most prominent texts that display discrimination and exclusion towards Persons with Disabilities in general, and persons with psychosocial and intellectual disabilities in particular. It is worth noting that such discrimination and exclusion derives its legitimacy from the Jordanian Constitution itself, which states in Article (75) that "he cannot be a member of the Senate and the House of Representatives ... whoever was indicted and was not cleared or ... those insane or demented (474).

Since the Constitution did not indicate what is meant by "insane or demented", the reference will then always be with the provisions of the Civil Law as the general authority in identifying and demonstrating conditions and aspects of legal capacity. This law is marred by ambiguity and confusion in the definition of «insanity, dementia, gullibility and stultification» where this issue is greatly generalized and lacks objectivity. This has led to real discrimination and exclusion of persons with psychosocial and intellectual disabilities, as detailed in Article (12) of this report.

The Temporary Election Law for the House of Representatives No. 9/2010 (475) went along with the Constitution, stipulating in its Article (3) paragraph (c) that "deprived of the right to vote: ... 2. those indicted for any reason and not cleared. ... 4. those who are insane or demented.» There is nothing similar to this text in national legislation in terms of depriving persons with psychosocial or intellectual disabilities of the right to vote based on medical reports with their shortcomings and limited perspective as set out in Articles (12) and (27) of this report.

This Election Law went on further to deny persons with psychosocial or intellectual disabilities of their right to run for the House of Representatives in the first place in Article (8) where it reads that "applicants for candidacy for membership of the House of Representatives : ... should not be indicted and not cleared... i. and should not be insane or demented"

The Municipalities Law No. 14/2007 (476) contained similar provisions regarding the right of persons to vote and stand as candidates in municipal elections, where Article (12), paragraph (a) states that "everyone has the right to have his name included in the voters' lists if he fulfills the following conditions and qualifications: ... 4. not to be insane or indicted and not cleared, for one reason or another". Then came Article (18) of the Law to show that candidacy for municipal elections is conditioned upon being included on the list of registered voters, according to the conditions and rules specified in Article (12) above, which excluded persons with intellectual and psychosocial disabilities from registering on these lists, in a move consistent with the general discriminatory approach adopted by the Jordanian legislator towards Persons with Disabilities.

The question arises about the position of Law No. 31/2007 which devoted a special paragraph confirming the right of Persons with Disabilities to participate fully in political life stipulating in Article (4), paragraph (g) item (1) "the right of Persons with Disabilities in exercising candidature and vote in different areas and the adaptation of appropriate facilities so that they are accessible and easy to use, enabling their exercising of the right to vote by secret ballot in elections (477)".

How can this text be understood in light of the restrictive discriminatory provisions cited by the Constitution and election law referred to above? In fact, the answer lies in the heart of Article (4) of the same Law No. 31/2007, which placed a restriction on the enforcement of all of its provisions by beginning the article

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474- <http://www.parliament.jo/node/137>; [http://www.lob.gov.jo/ui/constitution/search\\_no.jsp?year=1952](http://www.lob.gov.jo/ui/constitution/search_no.jsp?year=1952)

475- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=9&year=2010](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=9&year=2010)

476- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=14&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=14&year=2007)

477- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

with the sentence "taking into account the legislation in force, relevant authorities, each according to their specialization, provide citizens with disabilities rights and services set out in accordance with the provisions of this law in the following areas..."

The activation of any of the provisions and measures stipulated in this Law, including the right to participate in political and public life, is subject to what is permitted and authorized by other legislation, including election laws and constitutional provisions. In fact, this approach strips the texts of Law No. 31/2007 of their content since their enforcement will be based on what permitted by other laws that are full of discriminatory exclusionary provisions against Persons with Disabilities, as set out in the various articles of this report.

It should be noted that the voting process for Persons with Disabilities in parliamentary and local elections was beset by many environmental and attitudinal obstacles, preventing their exercising of this right in total independence and secrecy, as persons with visual disabilities publicly cast ballots in front of the election committee by announcing the name of their candidate, since the Ministry of Interior's regulations up till 2010 did not allow them to bring a personal assistant who could write for them. Additionally, persons with hearing impairment did not have access to sign language interpreters to facilitate communication between them and members of the election committee, which made many refrain from exercising their electoral right. The same is said for persons with physical disabilities, where environmental constraints and lack of accessibility at polling stations led to their reluctance to exercising their right to vote, as detailed in Article (9) of this report.

In a very advanced move, the Ministry of Interior responded to the demands of the 2010 TAKAFO' campaign (478) launched by 18 activists with disabilities and those interested in human rights issues, where they called on the Ministry of Interior to ensure secrecy and respect for privacy and independence for Persons with Disabilities in the exercising of their right to vote in the parliamentary elections in November that year. Based on provisions of Article (29) of CRPD and Article (4), paragraph (g) of Law No. 31/2007, the TAKAFO' campaign centered on the need to provide sign language interpreters and to make accessible a reasonable number of polling stations, and to allow persons with visual and hearing disabilities, and persons with physical disability in the upper limbs, a personal assistant of their own free will, to assist them in writing the name of their candidate with privacy and independence.

TAKAFO' monitored 92 polling stations out of 230 centers announced by the Ministry of Interior as accessible to Persons with Disabilities, and issued an exit poll report in December 2010, which included indicators of significant progress in voting by Persons with Disabilities. Violations which ranged from not adapting some of the designated centers to not allowing some personal assistants to enter the polling station with a voter with disability were outlined in both the TAKAFO' (479) campaign's report and the NCHR report on the 2010 election. (480)

In turn, the Societies Law No. 51/2008 (481) puts a similar constraint to the right of persons with intellectual disabilities and psychosocial disabilities to establish an association or join one as members, where the text in Article (8) reads "the founding member of an association is required to the following conditions in addition to any terms and conditions contained in the association's bylaws: ... c. must be fully capable". It is noted how the text of this article does not detract from the conditions outlined in societies' bylaws, which may also include discrimination against Persons with Disabilities, such as the condition of "full capacity", according to the predominant legal definition, or the requirement that the applicant for membership be free from disabilities and diseases, as is the case with applications for jobs and unions,

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478- <http://www.takafo.org>

479- <http://www.takafo.org> [https://docs.google.com/document/d/1mRjlsQFnR9z6ijy3UcAmTy2Vzui\\_OVcoJlyjlv1k8LM/edit?hl=en\\_US&pli=1](https://docs.google.com/document/d/1mRjlsQFnR9z6ijy3UcAmTy2Vzui_OVcoJlyjlv1k8LM/edit?hl=en_US&pli=1)

480- National Center for Human Rights Report on Parliamentary Elections for 2010, p. 53-54 [http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/nchr\\_Elections2010.pdf](http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/nchr_Elections2010.pdf)

481- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=51&year=2008](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=51&year=2008)

as explained in Article (27) of this report.

The Political Parties Law No. 19/2007 <sup>(482)</sup> included a restriction of legal capacity for membership in political parties, reported in article (5) paragraph (a) on the conditions for party establishment and membership, where item (4) of this paragraph notes as one of these conditions that a person enjoys “full civil and legal competence”. Needless to say, medical doctors are again the ones determining legal capacity and its degrees.

## ***Practices***

The documentary film produced about the TAKAFO’ campaign shows what Persons with Disabilities faced in terms of violation of their right to vote in secrecy, privacy and independence, as well as the significant positive changes that occurred in this area during the 2010 elections of the House of Representatives. <sup>(483)</sup> The campaign’s exit poll report also revealed that there is still work and efforts to be done by concerned parties to promote a real, permanent and stable strengthening of the right of Persons with Disabilities to a the right to vote on an equal basis with others. This prompted members of TAKAFO’, in coordination with the Higher Council, to submit a proposal to amend the election law to include provisions and measures to ensure the continuity and obligatory nature of the instructions and procedures issued by the Ministry of Interior in the 2010 elections, as outlined above.

Debates with more than 400 activists and DPO representatives <sup>(484)</sup> on the issue of an electoral quota for Persons with Disabilities showed that more than half of the participants did not support the allocation of a parliamentary quota on the basis of disability, as they believe that such measures contradict the foundations of democratic action, and do not constitute a priority at the time. Others expressed that, in accordance with the provisions of CRPD, a quota is needed as a special non-discriminatory measure to accelerate equality and equal opportunities, and influence decision-making, and formulate national policy in a way that mainstreams disability issues.

The rights of Persons with Disabilities are absent from the agendas of candidates for parliamentary or municipal elections, as campaign slogans and programs for the 2010 election for House of Representatives were devoid of this issue. In the same vein, according to the views of those involved in the meeting referred to above, disability issues did not draw the attention of any of the candidates who do not realize that Persons with Disabilities can form an important electoral force, and because these candidates hold stereotypes about Persons with Disabilities, viewing them as «medical conditions» to whom political participation is not a priority. It seems that this view is the reason why many Persons with Disabilities support the idea of allocating an electoral quota to ensure their representation in Parliament, as described above.

By sharing their experiences in the consultative meetings, stakeholders pointed out that the Ministry of Social Development does not accept the registration of associations of persons with psychosocial disabilities in this description, under the application of the restrictive text contained in Article (8) of the Societies Law No. 51/2008 referred to above. In the same vein, the Ministry will also not accept the registration of an association if the founders are themselves persons with intellectual disabilities. Therefore, a severe weakness is noted in the representation of those persons who are represented by their families in any activity or public forum, in consecration of unjustified guardianship and blatant diminishment of their legal capacity. The same is noted even more strongly in the representation of persons with psychosocial disabilities, whose families do not even disclose their existence or present

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482- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=19&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=19&year=2007)

483- <http://www.youtube.com/watch?v=zXEBMOUZ7PQ>

484- Consultative meetings in different Regions of the Kingdom, to discuss the draft report June 22, 2011 to July 16, 2011. The forum with activists and representatives of DPOs and donors in cooperation with the Civil Society Program and Mobility International USA February 28-March 1, 2010

them to the community. Those persons do not have any representation, with the exception of the recently established "Khotwetna" Society which constitutes a good step forward in enhancing participation and involving persons with psychosocial disabilities in public life. The society was also mentioned in the National Plan for Mental Health, in terms of the need to support and promote its work, given that it is a unique and pioneering initiative in this area. (485)

### ***Recommendations for Article 29: Participation in Political and Public Life***

#### **At the policy and legislation level:**

1. Abolish the constitutional text contained in Article (75) denying citizens the right to run for election based on the availability of legal capacity in the medical sense.
2. Cancel provisions in parliamentary and municipal elections laws that deny persons with psychosocial and intellectual disabilities the right to vote and stand for elections.
3. Eliminate the text contained in the Societies Law that prevents persons with psychosocial and intellectual disabilities from establishing and registering associations.
4. Remove the text contained in the Parties Law that prevents persons with psychosocial and intellectual disabilities from joining political parties.
5. Adopt a support in decision-making model, rather than detract from the legal capacity of persons and impose guardianship and deny the exercising of their constitutional rights without monitor, based on a narrow medical diagnosis that limits disability to a physical or psychological state, in isolation of the surrounding environment and what it entails in terms obstacles and barriers, as detailed in Article (12) of this report.

#### **At the practical level:**

1. Organize advocacy campaigns and lobbying on the part of Persons with Disabilities and DPOs, in order to cause real legislative change based on combating discrimination and annul each text detracting from the legal capacity of persons, and accordingly denies them the right to participate in public and political life.
2. Establish organizations led by Persons with Disabilities, whose main objective is to strengthen the rights of Persons with Disabilities and promote their participation, away from services-based welfare frameworks.
3. Undertake lobbying efforts on the part of Persons with Disabilities and DPOs to demonstrate their impact as an influential electoral force in order to include the rights and issues of Persons with Disabilities in the candidates' electoral programs and agendas.
4. Mainstream the rights and issues of Persons with Disabilities in the plans and programs of political parties, and encourage Persons with Disabilities to join parties, each according to their political or environmental or social orientation.
5. Monitor violations against Persons with Disabilities in their exercising of the right to vote and participate in public life, in an accurate and systematic manner, through NCHR and the organizations involved in monitoring and documenting human rights violations in general.

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485- National Plan for Mental Health, National Committee on Mental Health, Dec. 2011, p. 29

## **Articles (30):**

# **Participation in Cultural Life, Recreation, Leisure and Sports**

**[Back to content page](#)**



## ***Analysis of Current Legislation and Policy***

The system of national legislation and related policies concerning creativity, culture, sports and tourism in Jordan, failed to afford any importance to the right of Persons with Disabilities to creativity, to access cultural content and knowledge, to enjoy touristic and archaeological sites and to practice sports, on an equal basis with others.

The texts of the Culture Law No. 36/2006 <sup>(486)</sup> were also devoid of any reference to the right of Persons with Disabilities to culture and to access cultural content and facilities through accessibility and reasonable accommodation.

The texts of the Culture and Heritage Dissemination Regulations No. 21/2007 <sup>(487)</sup>- which included measures and provisions to strengthen the role of the Ministry of Culture in the dissemination of cultural and creative production of all types and through various means - did not derail from this course, as they too were devoid of any measures related to reasonable accommodation and accessibility to ensure that Persons with Disabilities enjoy this central right.

The important Press and Publications Law No. 8/1998 <sup>(488)</sup> noted the commitment of those bodies who issue publications to provide forms of design and methods of printing and publishing, as to ensure that Persons with Disabilities have equal access to published content, including various newspapers, magazines and periodicals, which lack forms of reasonable accommodation that would enable Persons with Disabilities to read them. Indeed, none of the daily or weekly newspapers are issued in Braille or large print, and website in general do not apply any of the criteria for reasonable accommodation to enable Persons with Disabilities to use them easily, as set out in Article (21) of this report. This, in turn, deprives those persons of their right to read and acquire knowledge that is available to all.

Perhaps analysis of the provisions of the Copyright Protection Law No. 22/1992 <sup>(489)</sup> shows some of the legal obstacles to ensuring Persons with Disabilities their right to culture and knowledge on an equal basis with others, as Article (3) of this law states "a) protected by the law are works of literature and the arts and sciences, whatever the type or importance of these works or the purpose of production. b). this includes the works that will be expressed through writing, sound, drawing, photography or motion ..." The legislator added modes of expression within the scope of legal protection under the provisions of this law, which include books, booklets, electronic copies, computer programs and explanatory diagrams, and other means of creative and artistic expression. Article (8) of the same law states that only the author decides the way to publish their work in the manner and at the time that they see fit.

There is no doubt that the reproduction of creative work in Braille, in large print, computerized copy or sign language are all matters within the scope of this Law as ways and means of publishing that should not be done without the prior consent and permission of the author, especially since the law in question contains no reference to measures related to forms of reasonable accommodation and universal design in terms of the various items and products.

However, Article (17) of the law included provisions to allow for the use of the classified work and its display different through various means for clarification, whether images or movement or act, if the purpose is teaching and is within the educational institution, or if the item is for personal use. In spite of the fact that this license could alleviate restrictions on the enjoyment by Persons with Disabilities of their right to culture and knowledge, especially in the field of education, its scope is too narrow to remove the actual barriers that render this right ineffective and without real impact.

By allowing the classified work to be handled in different ways for personal use, the Copyright Protection Law confines this to the individual who will have the burden of transforming any work to Braille or an electronic copy or sign language or large print or plain language, if the user is a Person with Disability,

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486- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=36&year=2006](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=36&year=2006)

487- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=21&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=21&year=2007)

488- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=8&year=1998](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=8&year=1998)

489- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=22&year=1992](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=22&year=1992)

as a publishing house or a specialized library or an association cannot do so given their general impersonal nature. Indeed, their contribution to facilitating the use of classified works for personal use by Persons with Disabilities can be viewed as a much larger exercise that may be considered as redistribution of a work without the permission of the author.

Law No. 31/2007 <sup>(490)</sup> did not include provisions on the right of Persons with Disabilities to culture and knowledge, as everything reported in Article (4), paragraph (h) amounts to nothing more than a desire to mainstream disability issues in cultural programs and activities implemented by the relevant authorities, without affirming the right of Persons with Disabilities to access cultural facilities, and technical and knowledge content of creative cultural works, through reasonable accommodation and accessibility and design which would be considered a re-publishing of the work that requires prior authorization and licenses.

The National Strategy - Phase II did well to include the section on "Sports, Entertainment, Culture and Public Life" activities which aimed at disseminating the cultural and creative output of Persons with Disabilities, and enhancing their participation in cultural life by encouraging the creators among them and publishing their literary work. The section also included under activities "support fine art exhibitions of persons with physical disabilities and the blind"<sup>(491)</sup>.

While acknowledging the positive nature of such activity, like its predecessor, a question arises about the significance of selecting persons with physical disabilities and persons with visual disabilities for supporting fine art exhibits. Is this an oversight or an issue in wording, or a reflection of a particular understanding on the part of the authors of the National Strategy that is based on observations and subjective judgments, without accurate and objective research? Persons with hearing and intellectual disabilities and others may be fine artists. And do the authors of this Strategy really believe, regardless of their views and backgrounds, that persons with visual disabilities can be artists and sculptors, despite the absence of the simplest forms of reasonable accommodation, not only in the field of creativity and culture, but also before that, in education, employment and health, as outlined in this report?

With regard to the cultural identity of deaf persons, the weakness of sign language in terms of foundation and practice - as detailed in Articles (9) and (24) of this report - is an obstacle to the development of such an identity. The general direction of policymakers and actors in the executive bodies show that they view sign language merely as a method or means of expression, and not a native language with its own rules and vocabulary and characteristics like any other language. <sup>(492)</sup>

In the field of tourism, the provisions of the Tourism Law No. 20/1988 <sup>(493)</sup> the National Strategy for Tourism for the years 2011 to 2015 <sup>(494)</sup> and the Regulations of the Tourism Promotion Board No. 79/2007 <sup>(495)</sup> are all devoid of measures to ensure easy access for Persons with Disabilities to tourist facilities on an equal basis with others.

Other than the text of Article (4) on entrance fees to museums and archaeological sites No. 40 / 2002 <sup>(496)</sup> which exempts "a disabled visitor" from entry fees at these locations, it is difficult to note any other effective measures that will stimulate tourism in the community of Persons with Disabilities, whose access to archaeological sites and tourist facilities generally faces many environmental and attitudinal barriers, which have made the exercising of this right for them a matter of luxury that is not even on the bottom of the list of priorities. <sup>(497)</sup>

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490- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

491- National Strategy - Phase II, Axis of «Sports, Entertainment, Culture and Public Life» p. 80 activities; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

492- First Arab Regional Conference, Empowering Deaf Women: Reality and Challenges, organized by the Society for Development of Deaf Jordanian Women in Amman, on May 5, 2011. Results of focus groups organized by the report team with students with hearing impairment in elementary education and families and sign language interpreters in Special Education Centers in different Governorates of the Kingdom August 24-25, 2010 <http://www.alghad.com/index.php/article/471620.html>

493- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=20&year=1988](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=20&year=1988)

494- <http://www.mota.gov.jo/ar/Default.aspx?tabid=70>

495- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=79&year=2007](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=79&year=2007)

496- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=40&year=2002](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=40&year=2002)

497- Workshop on reasonable accommodation and accessibility in the tourism sector for Persons with Disabilities, held in

The fact is that the weakness of environmental accessibility, as detailed in Article (9) of this report, plays a key role in excluding Persons with Disabilities from the enjoyment of their right to access public tourist facilities, especially places of archaeological interest that totally lack any form of environmental accessibility, as is the case in the cities of Petra, Jerash, Ajloun, and others.

The lack of accessible means of transportation is another factor that contributes to exclusion, as the texts of the regulations of Tourism and Travel Offices and Companies No. 11/2005 <sup>(498)</sup> do not contain any reference to ensure that such transportation are accessible to tourists with disabilities, despite the existence of a provision that exempts transportation means intended for use by Persons with Disabilities from taxes and customs duties, in accordance with the provisions of Article (4), paragraph (f) of Law No. 31/2007.

In the area of sports, the Jordan Olympic Committee Law No. 13/2007 <sup>(499)</sup> lacks any reference to Persons with Disabilities and their right to practice various sports on an equal basis with others, by ensuring reasonable accommodation and accessibility in sports facilities and game equipment and accessories. The picture looks even bleaker when reviewing conditions for membership in sports federations, as described by the regulations of Jordan's Sports Federations No. 87/2004 <sup>(500)</sup> where Article (8) states that "active members should not be convicted of a felony or misdemeanor involving morals or honor and should enjoy civil rights".

The same condition is stipulated in Article (9) of the same regulations with respect to the observer member. The problem with this restriction lies in the part related to the enjoyment of civil rights, as legislative texts detract from legal capacity to act for persons with psychosocial and intellectual disabilities, as is the case in the Civil Law and the Personal Status Law and the Notary Law, and others, as outlined in Article (12) of this report.

This will always be used as a justification to exclude these persons from membership in sports federations, which were originally established to entrench a culture of diversity and acceptance of others and combat discrimination, as provided for in this same regulations in Article (5), paragraph (b) which states that "in order to achieve its objectives, the federation assumes the following duties and authorities: ... 2. contribute to the development and promotion of a culture of sports, and reinforce the principle of good conduct, fair play and non-discrimination and the reduction of hostilities ...." The same is reported by the Olympic Committee Law, which has already been referred to in Article (4) which stipulates that "the Committee is set to achieve its objectives and following tasks: ... c. active participation in activities that aim to the following: ... 1. humanitarian harmony and combating discrimination".

The text of Law No. 31/2007 <sup>(501)</sup> and the National Strategy - Phase II <sup>(502)</sup> included provisions and special measures aimed at enhancing the participation of Persons with Disabilities in sports activities, and the provision of reasonable accommodation and forms of accessibility in sports facilities, and habilitation of cadres and the inclusion of sports practiced by Persons with Disabilities in the programs implemented by the institutions, schools and various sports centers.

## ***Practices***

The inadequacy of national legislation and policies in the field of culture, tourism and sports has led mobilized individual and institutional capacities of organizations and associations working in the disability field to assume leadership to compensate for this shortcoming and to provide a minimum level of cultural participation, sports and promotion of creativity for Persons with Disabilities.

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498- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=11&year=2005](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=11&year=2005)

499- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=13&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=13&year=2007)

500- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=87&year=2004](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=87&year=2004)

501- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?year=2007&no=31](http://www.lob.gov.jo/ui/laws/search_no.jsp?year=2007&no=31)

502- National Strategy, Phase II, Section on «Sports, Entertainment, Culture and Public Life», p. 78-80

<http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

In the field of spreading culture and knowledge, some associations such as the Friendship Society for the Blind converted a collection of books and literary and artistic magazines to computerized copies, and uploaded them on the Society's website in order to make them available for persons with visual disabilities. (503) The Society also provided a range of cultural and religious books and publications in Braille and made them available for free for those interested, according to the borrowing system in operation at the Society's Library. (504)

Certain clubs for deaf persons also implement cultural activities, especially theatrical performances in sign language, which provides deaf persons with a much-desired space for creativity and participation in cultural life. (505)

Some entities organize similar theater performances that aim to involve children with disabilities in such creative activities, as is the case in the play "Land of Dreams" in which a group of children participated, and was designed to change the stereotypes about Persons with Disabilities and promote the culture of diversity in children. (506)

While recognizing such positive initiatives, questions remain on how to address the issues of disability and which approach to adopt, especially given that many of these productions attempt to show Persons with Disabilities in stereotypical images, that even though appear to be positive, they in fact prevent neutralizing disability and placing it in a framework of human rights principles that is far from exaggeration or hype.

In the field of tourism, Middle East University recently launched an initiative in collaboration with the Jordanian Women's Development Association for the Deaf, designed to habilitate tourist guides who are fluent in sign language to communicate with tourists with hearing impairment, whether they are nationals or foreigners. (507) In the same vein, a Person with Disability that is interested in tourism affair established a travel and tourism office equipped with screen readers and Braille, the first initiative of its kind in Jordan in 2009. (508)

The interview conducted by the report team with the "Special Needs Unit" in GAM showed that the number of hotels in Amman is 134, with 9 five-star hotels that are accessible, 1 four-stars hotel and 14 three-star hotels that have ramps at their entrances but are not accessible on the inside.(509)

The attitudinal obstacles remain a common and apparent factor in the exclusion of Persons with Disabilities from the tourism sector, whether as visitors or as workers and staff, with discrimination and stereotypes contributing to the perpetuation of a prevalent belief on the part of interested and responsible parties in this sector that disability is not an issue that can be introduced to the tourism sector's agenda.

The sports field appears to be one of the areas of most interest to Persons with Disabilities, DPOs and clubs, with the General Federation for Sports for the "Handicapped" was created in Jordan in 1981, to begin training and habilitation activities for players in weightlifting and basketball for persons with physical disabilities and bowling for persons with visual disabilities, and other games. (510)

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503- <http://www.fabjo.org>

504- Interview with Ahmad Louzi, president Friendship Society for the Blind January 22, 2011

505- Interview with Mohammad Nassar and sign language interpreter Ashraf Odeh, of the Prince Ali Club for the Deaf, Amman 7/8/2011

506- [http://www.culture.gov.jo/index.php?option=com\\_content&view=article&id=3434%3Aa-play-qland-of-dreamsq-with-the-participation-of-children-with-special-needs&catid=1%3Anews&Itemid=67&lang=ar](http://www.culture.gov.jo/index.php?option=com_content&view=article&id=3434%3Aa-play-qland-of-dreamsq-with-the-participation-of-children-with-special-needs&catid=1%3Anews&Itemid=67&lang=ar)

507- [http://www.meu.edu.jo/public\\_News/Nws\\_NewsDetails.aspx?Page\\_ID=241&lang=1&NewsID=227&Type=P](http://www.meu.edu.jo/public_News/Nws_NewsDetails.aspx?Page_ID=241&lang=1&NewsID=227&Type=P)

508- <http://www.archaeologic.net/cmds.php?action=newsopen&id=1924>

509- Interview with Engineer Rana Haddadin, director of the "Special Needs Unit" at Greater Amman Municipality December 4, 2010

510- [http://www.ijaca.org/sport.asp?sport\\_id=39](http://www.ijaca.org/sport.asp?sport_id=39)

In spite of the advanced positions that players with disabilities attain in national and international competitions, and their winning of various medals and awards, they are confronted with discrimination and exclusion as they are ignored by the media and not properly supported and encouraged by government, as reported by a group of these players in the consultative meetings <sup>(511)</sup> as well as the forum organized by the Civil Society Program on October 22 <sup>(512)</sup> and the panel discussion organized by International Mobility USA and the Civil Society Program in March 2010. <sup>(513)</sup> These initiatives all demonstrate the absence of strategic planning and systematic organization, which guarantees Persons with Disabilities full and effective exercising of rights and equal access to cultural, sports and tourism facilities, guided by the principles and general obligations of CRPD and its detailed provisions.

### ***Recommendations for Article (30): Participation in Cultural Life, Recreation, Leisure and Sports***

#### ***At the policy and legislation level:***

1. Include in legislative texts governing the right to culture, creativity and dissemination of heritage measures and provisions to ensure cultural output in its various types and forms for Persons with Disabilities, through reasonable accommodation and means of accessibility and universal design.
2. Amend the texts of Law No. 31/2007 to include provisions that promote the right of Persons with Disabilities to access sports facilities, as well as tourism and cultural sites on an equal basis with others.
3. Add provisions to the Copyright Law that allow for converting literary, cultural, artistic, and scientific work to versions accessible to persons with visual, hearing and intellectual disabilities, allowing them access to content, use and benefits on an equal basis with others.
4. Cancel the restriction in the sports federations' regulations and any restriction in any other legislation that would limit the participation of Persons with Disabilities in general, and persons with psychosocial and intellectual disabilities in particular, in sports activities or membership in federations of various kinds.

#### ***At the practical level:***

1. Formulate a national action plan with the participation of Persons with Disabilities and DPOs, to make tourist, cultural and sports facilities accessible, in accordance with the provisions of the Building Code Requirements and the principles and detailed provisions of CRPD, within a specified timeframe.
2. Organize the efforts of activists with disabilities and DPOs to develop sign language, and organize advocacy campaigns and lobbying efforts for the recognition of this language as a native language for deaf persons, in order to foster their independent cultural identity.
3. Develop a guidebook by Persons with Disabilities and DPOs on forms of accessibility and reasonable accommodation that should be available at tourist facilities and in transportation means, and train cadres in this field on the concepts of human rights and the culture of diversity.
4. Collaborate with the media and implement advocacy campaigns to promote support for creative Persons with Disabilities in the fields of culture and sports.

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511- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011.

512- Panel discussion with 250 activists and representatives of DPOs and service providers, on the sidelines of a visit of by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010

513- Forum with activists and representatives of DPOs and donors organized by the Civil Society Program and Mobility International USA February 28-March 1, 2010

**Articles (31):**

## **Statistics and Data Collection**

**[Back to content page](#)**



## ***Analysis of Current Legislation and Policy***

The issue of lack of statistics, data, and accurate information in the field of disability is one of the biggest challenges facing efforts and initiatives aimed at strengthening the rights of Persons with Disabilities and effecting legislative and policy change in Jordan.

Despite the clarity of the provisions of Law No. 31/2007 in Article (3) paragraph (i) which considered the creation of databases and information gathering and statistics as a key pillar, on which this law and general State obligations <sup>(514)</sup> are based, practical indicators signal a large gap in this area that needs effective effort to bridge it towards the development of legislative frameworks and policies in harmony with human rights principles and CRPD's detailed provisions. These obligate States parties to generate statistics and establish a database that contributes to strengthening the rights of Persons with Disabilities and helps to realize and develop the programs and services provided.

Strategies and plans of the ministries and of the various executive bodies lack statistics and data and accurate information on Persons with Disabilities that are covered by these entities' programs and services, as well as the quality of these services and programs and their accessibility to Persons with Disabilities and their geographical distribution.

Data issued by DOS indicate that the population of Persons with Disabilities as a whole does not exceed 2% of Jordan's total population, according to the 2004 Census. <sup>(515)</sup> This figure is in stark contrast with the World Health Organization's (WHO) estimates that indicate 15% of the global population, <sup>(516)</sup> a percentage that was acknowledged by DOS in the interview conducted with the report team, whereby it confirmed general inaccuracy of the figures published about Persons with Disabilities, <sup>(517)</sup> in addition to the feedback provided by the stakeholders themselves, as reported by Persons with Disabilities during the consultative meetings on the report. <sup>(518)</sup>

The National Strategy's two phases <sup>(519)</sup> did not include any statistics or informed, accurate data about the census of Persons with Disabilities and their geographical and gender distribution. Available data and information appear to be the mere reporting of numerical figures issued by the Disabilities Diagnostic Center, and the results of the above-mentioned 2004 Census issued by DOS. <sup>(520)</sup>

An important observation in this regard is that the obvious impact that the medical welfare approach has on how relevant bodies report and employ rare statistical data. Indeed, these bodies are accustomed to release available data and statistics in the context of a services-based welfare model limited to medical habilitation services and health and prevention in particular.

The National Strategy - Phase II prioritized the issue of statistics and creating a database about Persons with Disabilities in the section on Health. <sup>(521)</sup> While recognizing the need to provide data and information in different areas, we have to look at the issue of data collection and statistics as a priority need to strengthen the rights of Persons with Disabilities and to achieve equality and equal opportunities for them in the various rights and fundamental freedoms, as provided by the International Convention on Human Rights Laws CRPD, and not as indicators of increases or decreases in cases of disability and reasons for their occurrence.

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514- Law No. 31/2007 Article (3) paragraph (i), promoting scientific research and exchange of information in the field of disability, data and information collection and statistics on disability that is updated in the field

515- [http://www.dos.gov.jo/sdb\\_pop/sdb\\_pop\\_a/index3\\_o.htm](http://www.dos.gov.jo/sdb_pop/sdb_pop_a/index3_o.htm)

516- World Report on Disability, World Health Organization, 2011 [http://www.who.int/disabilities/world\\_report/2011/summary\\_ar.pdf](http://www.who.int/disabilities/world_report/2011/summary_ar.pdf)

517- Interview with Ikhlas Aranki, Deputy Director, Department of Statistics, September 28, 2010

518- The consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

519- National Strategy, Phase I, <http://www.hcd.gov.jo/ma7.htm> National Strategy, Phase II, <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

520- <http://www.hcd.gov.jo/str3.htm>

521- National Strategy, Phase II, Section on Health and Disability, p. 45 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

In the same vein, analysis of information issued by some executive bodies about Persons with Disabilities shows the limited perspective through which data and statistics are collected and analyzed, as almost all of this data is purely numerical, without consideration for what these numbers mean in terms of the extent of achievement of equality and equal opportunities for Persons with Disabilities in exercising their fundamental rights and freedoms and having effective access to public services available to all without discrimination.

A review of the Disabilities Diagnostic Center's annual numerical reports <sup>(522)</sup> on the number of visitors, as well as the thousands of medical reports issued by the Center for different purposes, for example, confirm the dominance of the medical model and the conditioning of the practice of many of the rights and the access to related services on the medical diagnosis, as already noted in other sections of this report.

## ***Practices***

Certain authorities have recently taken significant steps towards the creation of a database about Persons with Disabilities and the services provided to them. For example, the Higher Council noted in its 2010 annual report <sup>(523)</sup> a number of procedures that it carried out in cooperation with various authorities and bodies, with the purpose of issuing guidelines and statistical data about the institutions working in the field of disability and the various services they provide, including the quality of those services and their geographical distribution.

While recognizing the importance of such positive initiatives, it is not clear what is the basis and methodology adopted in the implementation of these initiatives. For example, what is the definition for the case of disability that was adopted by the Higher Council and its partners in this regard? Is it the purely medical definition contained in Law No. 31/2007 in Article (2) mentioned above? Or is it the new definition, which the National Strategy - Phase II referred to in line with CRPD? Is the purpose of this database limited to providing direct services and issuing cards to Persons with Disabilities as mentioned in its annual report?

The importance of answering these questions does not simply lie in the numerical results that will emerge from this database, but is also reflected, in the assessment of the reality of the rights of Persons with Disabilities and the physical and attitudinal obstacles and barriers they face, which prevent them from enjoying their rights and freedoms and accessing public services on an equal basis with others.

In the interview conducted by the report team with DOS noted earlier, the DOS representative said that the definition they adopt in the census of Persons with Disabilities and the classification of disabilities is the medical definition provided for in the annulled Law of Care and Rehabilitation of the Disabled No. 12/1993, the same one adopted in Law No. 31/2007 <sup>(524)</sup> which explains the discrepancy in the numbers and the stark contradiction to the WHO's and other international organizations' figures. <sup>(525)</sup>

It is noted that the mechanisms of collecting information and statistics used by DOS, the Higher Council and other relevant executive bodies, especially the Ministries of Social Development and Health, represented by the Disabilities Diagnostic Center, lack the effective involvement of Persons with Disabilities and DPOs in carrying out this central task. This underpins all policies, plans, and programs designed to change the reality, to promote the rights of Persons with Disabilities, to ensure equality and equal opportunities and to achieve effective access to public services.

In the absence of cooperation and participation in these official data collection, some local associations took it upon themselves to conduct their own statistical surveys on Persons with Disabilities and the types of disabilities present in the local environment. <sup>(526)</sup>

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522- [http://hcd.gov.jo/reports/2008%20\\_%202009.PDF](http://hcd.gov.jo/reports/2008%20_%202009.PDF)

523- Higher Council Annual Report 2010, p. 15 database on persons with disabilities <http://www.hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

524- Interview with Ikhlas Aranki, Deputy Director, Department of Statistics, September 28, 2010

525- World Report on Disability, World Health Organization, 2011 [http://www.who.int/disabilities/world\\_report/2011/summary\\_ar.pdf](http://www.who.int/disabilities/world_report/2011/summary_ar.pdf)

526- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011



It should be noted that CBR programs in some remote areas undertake significant efforts at the community level to identify the number of Persons with Disabilities and to convince families to disclose individuals with disabilities. (527) In this regard, it should be pointed out that the social stigma and the culture of shame and stereotypes all stand as a barrier to determining the actual numbers of Persons with Disabilities, especially in remote areas. (528)

The data collection mechanism and the current information used in the field of disability, which are based on the disclosure, documentation and circulation of persons' medical information, does not seem to guarantee respect for the right to privacy. This will oblige a Person with Disability to disclose this information in great detail every time he tries to exercise a right or access a particular service, as explained in other sections of this report (Articles 24, 25, 27) which is no doubt a flagrant violation of the right to privacy, as stipulated by CRPD in its different articles, in particular Articles (3) and (31), as well as the firm provisions of international law and the principles of human rights in this area.

Whatever the case is with individual initiatives by some non-governmental institutions and CBR programs, the absence of statistics and precise data on Persons with Disabilities, and the environmental and attitudinal obstacles that prevent them from enjoying their rights and fundamental freedoms on an equal basis with others, pose serious challenges to the sound and transparent development of policies, programs and plans as clearly indicated in the Strategy of "Employment, Education, and Vocational and Technical Training" (529) of the Centre for Human Resource Development (530) already referred to in Article (26) of this report.

### ***Recommendations for Article (31): Statistics and Data Collection***

#### ***At the policy and legislation level:***

1. Ensure that various executive bodies are committed to collecting, confirming, and updating data as part of their strategies and implementation plans.
2. Adopt a holistic and broad definition of cases of disability and of Persons with Disabilities in the process of conducting a census and in the collection of data and information.
3. Analyze data and statistics in a scientific and accurate manner and employ it to assess the reality of the situation and to develop policies and legislation, in a way that strengthens the practice of Persons with Disabilities of their rights and fundamental freedoms, and ensure their access to services on an equal basis with others and without discrimination.

#### ***At the practical level:***

1. Support the involvement and participation of Persons with Disabilities and DPOs in the design and implementation of data collection, update and use in the development of policies, plans and programs relating to their rights and issues.
2. Establish a coordination mechanism between DOS and different executive bodies, to unify and strengthen efforts with the aim of establishing a comprehensive national database to include adequate information on obstacles faced by Persons with Disabilities in exercising their rights, and the discriminatory practices and violations they face in various areas.
3. Provide data, information and statistics in accessible formats that allow access for everyone and for Persons with Disabilities and their use in research, studies and the design of programs and services, without compromising the right of Persons with Disabilities to respecting their privacy.

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527- Interview with Fatmeh Dahamsheh, Dleil Women's Association president, August 28, 2011

528- Interview with Ikhlas Aranki, Deputy Director, Department of Statistics, September 28, 2010; Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

529- <http://www.mol.gov.jo/LinkClick.aspx?fileticket=a2QQ5L1BYIM%3d&tabid=258>

530- <http://www.nchrd.gov.jo>

## **Articles (32):**

# **International Cooperation**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

Although Law No. 31/2007 did not contain explicit provisions on the promotion of international cooperation, as required by Article (32) of CRPD, this law cited some texts by which we trace the decision-makers' understanding of the importance of international cooperation in promoting disability issues and strengthening the rights of Persons with Disabilities in general.

In addition to the preamble of Article (3) of Law No. 31/2007 that emphasizes that international conventions and human rights principles are amongst the most important pillars on which the law's provisions are based, Article (7) of the Law included a paragraph indicating that participation in international efforts to promote the rights of Persons with Disabilities and achieve the objectives of CRPD and international conventions in this regard, as one of the most important tasks assigned to the Higher Council as the main body concerned with policy-making and monitoring implementation. Paragraph (f) of this Article notes "participation in efforts to achieve the objectives of international conventions and agreements relating to the affairs of disabled persons that the Kingdom ratified" (531). Paragraph (h) of the same article also notes "cooperation with national, regional and international institutions relevant to the Council's objectives".

The National Strategy - Phase II included a new section on "Networking" (532) which aims to enhance communication between the Higher Council and NGOs. However, international cooperation in the sense contained in CRPD does not appear clearly in this document (533) although it confirms elsewhere the importance of ministries and executive bodies adhering to the provisions of CRPD and international covenants. (534)

With regard to the achievement of the Millennium Development Goals II and the inclusion of disability issues and rights, Jordan issued a comprehensive report entitled "Keeping Promises and Realizing Ambitions" in 2010 on what goals have been accomplished to date, and what challenges obstruct their complete realization. The report also included a few references about Persons with Disabilities in the fight against poverty and improving the quality of services provided to them, as well as confirming cooperation with the Higher Council, and enhancing its role in order to achieve this (535).

In fact, many organizations and international and regional donor bodies now have an increased interest in including the rights of Persons with Disabilities and their issues and supporting their organizations in their agendas and programs in Jordan, following the government's ratification of CRPD and its publication in the Official Gazette in 2008. (536)

With regard to the level of participation of Persons with Disabilities and DPOs in the design and implementation of international cooperation programs, it seems that there is no clear mechanism to ensure this participation, neither at the level of government agencies and authorities, nor at the level of

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531- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

532- National Strategy, Phase II, Section on "Networking with Civil Society", p. 91-93 <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

533- National Strategy, Phase II, p 18, 19, 55; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

534- National Strategy, Phase II, p 25, 28; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

535- "Keeping Promises and Realizing Ambitions" the National Millennium Development Goals II report, Jordan 2010, Ministry of Planning & International Cooperation, p. 16, 22, 29, 35, 36, 56 <http://www.mop.gov.jo/uploads/Single%20Arabic.pdf>

536- [http://ec.europa.eu/world/enp/pdf/country/2011\\_enpi\\_nip\\_jordan\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/2011_enpi_nip_jordan_en.pdf) [http://disabilitymonitor-me.org/ar/index.php?option=com\\_content&view=frontpage&Itemid=1](http://disabilitymonitor-me.org/ar/index.php?option=com_content&view=frontpage&Itemid=1)

[http://www.csp-jordan.org/Home\\_Page.php](http://www.csp-jordan.org/Home_Page.php) [http://ec.europa.eu/world/enp/pdf/country/2011\\_enpi\\_nip\\_jordan\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/2011_enpi_nip_jordan_en.pdf)

international donor organizations, whose involvement with Persons with Disabilities and DPOs is often limited to the implementation phase of funded projects, with no indication that they are consulted or actively engaged in the design and planning phase. (537)

## ***Practices***

The Higher Council recently took certain positive steps towards the need to include disability issues on the agenda of international cooperation programs, which are coordinated and managed by the Ministry of Planning and International Cooperation (MOPIC). (538) While recognizing the value of this move as a necessary first step to draw the attention of governmental bodies responsible for international relations and cooperation to its obligations under Article (32) of CRPD, the analysis of what is reported by the National Strategy - Phase II (539) and the annual report for the year 2010 (540) issued by the Higher Council, points to limited cooperation with some international bodies and organizations in the implementation of programs and surveys. This demonstrates the absence of a clear vision on the issue of international cooperation as an inclusive, comprehensive, and effective mechanism in promoting the rights of Persons with Disabilities, and activating the application of CRPD's provisions and general principles at the national level.

In this regard, it must be noted that the executive bodies and those responsible for policy development and implementation follow-up in Jordan are not free from the obligations of CRPD's general principles, when finalizing any agreement for international, regional or bilateral cooperation. Therefore, it should not invest grants or international expertise in the design or implementation of programs that are not consistent with CRPD's principles, such as the construction of institutional care centers (541) or the building of independent living homes (542) in non-inclusive environments, or creating special learning environments without the ultimate goal of achieving full inclusion. (543)

On the other hand, donor organizations must adopt CRPD and its general principles as a framework when designing and implementing funding programs, which requires them to allocate part of these programs to develop the capacity of DPOs in the field of participatory planning and principles of human rights and good governance.

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537- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

538- [http://www.mop.gov.jo/arabic/pages.php?menu\\_id=141&local\\_type=1&local\\_id=834&local\\_details=1&local\\_details1](http://www.mop.gov.jo/arabic/pages.php?menu_id=141&local_type=1&local_id=834&local_details=1&local_details1)

539- National Strategy, Phase II, p. 18, 19, 55; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

540- Annual Report 2010, Higher Council, p. 3, 7; <http://www.hcd.gov.jo/ANNUAL%20R/Annual%20report%20Arabic.pdf>

541- [http://www.mosd.gov.jo/index.php?option=com\\_content&task=view&id=1355](http://www.mosd.gov.jo/index.php?option=com_content&task=view&id=1355)

542- Interview with Manar Madanat, representative of the Higher Council for Affairs of Persons with Disabilities in the South, February 1, 2011

543- National Strategy, Phase II, p. 38, 54, 61, 68, 78, 81; <http://www.hcd.gov.jo/pdf/Arbic%20Strategy.pdf>

## ***Recommendations for Article (32): International Cooperation***

### ***At the policy and legislation level:***

1. Include in both the National Strategy - Phase II and in MOPIC's Strategy specific measures to ensure comprehensive and inclusive international cooperation programs, so that the rights of Persons with Disabilities and their issues are a priority in these programs.
2. Ensure that government agencies especially MOPIC and the Higher Council consult with Persons with Disabilities DPOs to actively involve them in the submission of project proposals to obtain international support and funding, and in the implementation and evaluation of projects related to their rights or issues.
3. Encourage donors to review their strategies and methodologies in the disability field, so that Persons with Disabilities and DPOs serve as their first reference at the phases of program design, implementation and evaluation, including the identification of priorities and ways to address them.

### ***At the practical level:***

1. Organize advocacy campaigns and lobbying efforts on the part of DPOs, aimed at modifying the institutional behavior of recipient and donor agencies in Jordan so that their programs are inclusive of Persons with Disabilities.
2. Develop the institutional capacity of DPOs in a way that ensures their full independence in participating in international cooperation mechanisms through proposal writing and project management and evaluation skills.
3. Produce a guidebook on the part of DPOs and in cooperation with human rights organizations and relevant national and government agencies on how to mainstream the rights of Persons with Disabilities and their issues in international cooperation programs, and comprehensive development programs in general.

**Articles (33:**

## **National Implementation and Monitoring**

**[Back to content page](#)**

## ***Analysis of Current Legislation and Policy***

The problem of the multiplicity of the executive bodies, overlapping jurisdiction and powers, and poor coordination among them in the field of disability in Jordan, is one of the biggest obstacles to moving forward in the activation of CRPD's provisions and principles at the national level, and to strengthening the rule of law through the implementation of the provisions of Law No. 31/2007.

The Ministry of Social Development is the traditional "guardian" in the management of the affairs of Persons with Disabilities and DPOs according to the provisions of the Ministry's Law No. 14/1956 <sup>(544)</sup> that embodies the typical welfare charitable approach to the extreme. The Ministry continues to proceed with its various functions in this area on this law, ranging from direct aid to habilitation services to the supervision of one aspect of the education sector for specific categories of Persons with Disabilities. This is described in Article (24) of this report, in addition to the Ministry's jurisdiction in licensing centers and institutions working in the field disability. <sup>(545)</sup>

The idea of setting up the Higher Council initially emanated from the need to achieve CRPD's requirement of establishing a national coordinating mechanism that works to promote and monitor the implementation of CRPD's provisions at the national level. Article (7) of Law No. 31/2007 notes the functions of the Higher Council and stipulates in its first paragraph that "the Higher Council shall assume the following tasks and powers: (a) develop policy for Persons with Disabilities and review and monitor its implementation in coordination with the relevant authorities with the goal of consolidating all efforts to improve the standard of living and the living conditions of Persons with Disabilities and facilitate their inclusion in society" <sup>(546)</sup>.

Regardless of the tone of care and service that can be discerned from this paragraph, this text clearly sets the foundation for the Higher Council's role, as primarily responsible for the formulation of policies on the rights and issues of Persons with Disabilities, and entrusted with follow-up on their implementation, through coordination mechanisms that guarantee the commitment of each of relevant executive entity to implement the provisions of policies and strategies set by the Higher Council.

Article (32) of this report previously mentioned that the application of the provisions of international treaties and conventions is one of the functions which must be undertaken by the Higher Council, which was confirmed by paragraph (f) of Article (7) of Law No. 31/2007 noting the "participation in efforts to achieve the objectives of international conventions and agreements relating to the affairs of disabled persons that the Kingdom ratified".

This text conclusively demonstrates that the Higher Council has a legal obligation to promote the application of CRPD's provisions as a major international document related to the rights of Persons with Disabilities, but falls short by only calling for it "to participate" in the efforts to achieve the goals and objectives of international conventions on the rights of Persons with Disabilities. Its role, given its leadership in setting policy in the field of disability issues, should be a leading one directed towards ministries and other governmental bodies and not just as a participant in this critical process to achieving a paradigm shift from the medical-welfare approach to the holistic rights-based approach.

If the text of Article (7) of Law No. 31/2007 stopped at the text of paragraphs (a) and (f) referred to above in the statement on the role of the Higher Council and its functions, it would be a beacon and a model for the application of the provisions of CRPD's Article (33) in their entirety with respect to the national mechanism of implementation and coordination. But not all that is desired is immediately achieved.

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544- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=14&year=1956](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=14&year=1956)

545- [http://www.lob.gov.jo/ui/bylaws/search\\_no.jsp?no=96&year=2008](http://www.lob.gov.jo/ui/bylaws/search_no.jsp?no=96&year=2008); [www.mosd.gov.jo](http://www.mosd.gov.jo)

546- [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=31&year=2007](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=31&year=2007)

The goal of promoting rights and entrenching a culture of diversity vanished with Paragraph (b) of that Article when it noted “engage with the relevant authorities in the development of a comprehensive national plan to raise awareness and prevention to reduce the occurrence of disabilities and mitigate its degree and work to prevent it from escalating”. The promotion of the rights of Persons with Disabilities and the achievement of equal opportunities are unrelated to reducing disability and preventing it. The latter is within the jurisdiction of the Ministry of Health and does not fall under the responsibility of the authority entrusted with policy formulation to mainstream disability issues in public domain and to eliminate stereotypes and discriminatory and exclusionary practices that have extended over a long period of time.

Through a review of roles of various ministries in the areas of education, health, employment, habilitation, protection from violence, exploitation and promotion of political participation in public life, etc., as well as the involvement of the medical authority in all of these areas and the issuance of instructions, regulations and standards from various points which seek to regulate a specific sector, that there is ambiguity and confusion surrounding the jurisdiction and scope of roles and responsibilities. This makes the process of achieving follow-up, monitoring and accountability very difficult and complex, as there is a state of overlap and conflict of claims of jurisdiction or lack thereof between these entities which instead need to agree on an effective coordination mechanism defining the scope of jurisdiction for each based on law, relevant strategies, and delineated roles and responsibilities.

With regard to monitoring the application of CRPD at the national level, we have already noted that NCHR has in recent years consistently addressed the issues of Persons with Disabilities in its annual reports on the situation of human rights in Jordan (547) which are issued by at the end of each year, as well as in a special report on monitoring the 2010 parliamentary elections. (548)

The fact that these reports tackle the rights and issues of Persons with Disabilities is no doubt a good indicator of the beginning of a shift in attention to those rights and issues as part of the human rights system and not separate from it. However, we note that these reports are predominantly descriptive of the types of services that are offered and the existing institutions working in the field of disability, with less space being dedicated for highlighting the reality of discriminatory practices and violations of the rights of Persons with Disabilities.

On the other hand, the Higher Council is currently preparing a formal report on the status of implementation of CRPD in coordination and cooperation with some of the executive bodies, with the need to note that, until the time of this report's publication, Persons with Disabilities and DPOs did not have an opportunity to express their opinion with regard to the content or results or recommendations of this draft official report, when consultation with civil society activists in the field of the rights of Persons with Disabilities is an obligation on the State by CRPD in Article (33) and Article (4).

In this regard, we should distinguish between “consultation” and “full participation”, as the first is required for official reports while the second is not what CSOs should seek, as they will always be able to comment on what the State reports and refute it, through shadow reports that are recognized by the United Nations as approved monitoring mechanisms.

With regard to the level of participation of Persons with Disabilities in the implementation and monitoring of CRPD or national law, it can be said that there is an urgent need to broaden participation and deepen

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547- Publications of Human Rights reports in Jordan, <http://www.nchr.org.jo/arabi.aspx>

548- [http://nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/nchr\\_Elections2010.pdf](http://nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/nchr_Elections2010.pdf)



the quality of such participation, as the Law No. 31/2007 allocates seven seats for DPO representatives, who are chosen by direct appointment and not by election, with no clear or approved standards for this choice, with the absence of many Persons with Disabilities from this process, especially persons with psychosocial and intellectual disabilities and persons with invisible disabilities, as detailed in Articles (1-4) of this report.

In fact, the consultative meetings have shown poor participation of Persons with Disabilities and DPOs in the process of following up on the application of laws and CRPD, as well as the lack of serious and effective consultation with them in the process of preparing the parallel report issued by NCHR. (549)

Undoubtedly, Jordan's failure to ratify the Optional Protocol to CRPD is an obstacle to strengthening the scope of legal protection for Persons with Disabilities every time there is a violation of their rights or discrimination is exercised against them, where they may not be able to challenge or note grievances through national litigation mechanisms, which are new to CRPD and its general principles.

Despite that failure to ratify the Optional Protocol to CRPD, which is in line with the Jordanian State's traditional position vis-a-vis supplemental protocols related to human rights conventions, the State's apparent willingness to proceed with the process of reform and consolidation of the principles of human rights places DPOs, activists and the human rights movement as a whole in front of their responsibilities to urge the State to ratify the Optional Protocol to CRPD without delay.

### ***Practices***

A review of this report's various findings reveals a plurality of actors in the field of disability and a level of complexity and overlap in their roles. This no doubt produces some vagueness and ambiguity with regard to the scope of responsibilities for each and limits specialization and in turn, makes the process of implementing policies, legislation and CRPD both complex and generalized at the same time. Additionally, it is difficult for DPOs, activists and CSOs to monitor accountability and organize advocacy campaigns since they are often unable to determine the real authority that is responsible for a particular area or sector, as reported by those involved in the various consultative meetings. (550)

The process of preparing this report revealed an urgent need to develop the capacity of CSOs working in the field of human rights and the rights of Persons with Disabilities, on how to participate in monitoring the implementation of legislation and policies, documenting and writing reports, and organizing advocacy campaigns and lobbying efforts, including legal and judicial advocacy, in accordance with the rules adopted in this field.

What some organizations and individuals are doing and what media coverage about individual cases and specific demands related to employment, health or education, confirm an unclear vision of responsibilities and specializations among the various executive bodies, including the Higher Council, Ministry of Social Development, Ministry of Education, Ministry of Health, Ministry of Labor, Civil Service Bureau and others.

Certain experiences presented at the consultative meetings with regard to the violation of the right to work, for example, show that some people look to the Higher Council as the authority with the

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549- Parallel report to the Government report on the Convention on Persons with Disability, National Center of Human Rights, Amman-Jordan 2011

550- Panel discussion with 250 activists, representatives of DPOs and service providers, on the sidelines of a visit by Judith E. Heumann, Special Advisor for International Disability Rights, US Department of State, October 22, 2010; The consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 - July 16, 2011; Discussion of the first National Conference of the Higher Council (<http://hcd.gov.jo/arch130.htm>)

general mandate and the umbrella organization for issues of Persons with Disabilities, and that it is the exclusive body for exclusive authority for bodies and other ministries of jurisdiction. (551) This view is even entrenched in some executive bodies which always redirect to the Higher Council those Persons with Disabilities that reach out to them to demand a particular right or service.

Interviews conducted by the report team with some of these bodies showed that there is a near total reliance on assumed powers for the Higher Council that are not necessarily accurate or consistent with the law and the provisions of national strategies. This leads some of these actors to refrain from providing services to Persons with Disabilities, except through the issuance of letters of recommendation and endorsement traditionally granted to them through their organizations, during the era of the repealed Law No. 12/1993 and earlier.

There are several factors that play a key role in perpetuating such a strict territorial view in dealing with the issues of Persons with Disabilities and their rights. On the one hand, it appears that the Higher Council, while fully aware of its leading role in setting up policies and being responsible for follow-up on implementation in coordination with executive bodies, as required by provisions of Law No. 31/2007 and embodied in the National Strategy - Phase II (552), it still often appears as an executive body that provides direct services to individuals and organizations, without a clear, firm, and declared plan or strategy. This can be well-deduced from the activities and initiatives undertaken by the Higher Council on a number of occasions. (553)

On the other hand, Persons with Disabilities and DPOs revert to the traditional style of claiming their rights and facilitating their transactions based on immediate individual needs, through unofficial communication channels, and in the absence of organized advocacy movements with a legal basis. (554) This will inevitably lead to limiting specialization to one authority. In addition, it will relieve other entities of responsibilities imposed by basic legal provisions and the terms of the National Strategy, to the extent that these entities overlook even a mention of Persons with Disabilities in strategies and annual plans, as described in this report.

On another level the absence of executive regulations to activate the provisions of Law No. 31/2007 and other legislative texts which deal with the rights and issues of Persons with Disabilities has jeopardized the rule of law in this area. It has also reinforced the practice of sensationalizing the issue and using charity as the fastest way to access services and exercise rights, as shown in other Articles of the report, from the way demands are presented and how they are generally addressed in. (555)

Finally, the weakness of monitoring and accountability mechanisms and the lack of participatory and effective follow-up could dilute and weaken the value of legal texts, and override them with interpretations and individual efforts in achieving the minimum exercise of rights and access to related services.

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551- Consultative meetings held in various regions of the Kingdom to discuss the draft report from June 22, 2011 to July 16, 2011

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%D8%B9%D8%A8%D8%AF%D8%A7%D9%84%D9%84%D9%87%20%D8%A7%D9%84%D8%A7%D8%B5%D9%85%20...%D9%88%D9%82%D8%B3%D9%88%D8%A9%20%D8%A7%D9%84%D8%AF%D9%8A%D9%88%D8%A7%D9%86%20%D8%A7%D9%84%D9%85%D9%84%D9%83%D9%8A%D8%B9%D8%A8%D8%AF%D8%A7%D9%84%D9%84%D9%87%20%D8%A7%D9%84%D8%A7%D8%B5%D9%85%20...%D9%88%D9%82%D8%B3%D9%88%D8%A9%20%D8%A7%D9%84%D8%AF%D9%8A%D9%88%D8%A7%D9%86%20%D8%A7%D9%84%D9%85%D9%84%D9%83%D9%8A

## ***Recommendations for Article (33): National Implementation and Monitoring***

### ***At the policy and legislation level:***

1. Amend the text of Article (7) of Law No. 31/2007 to reflect the exact functions of the Higher Council, as an authority specialized in setting policy and following up on its implementation, without any other direct executive functions.
2. Review strategies and plans of ministries and various executive bodies and include clear and specific functions and responsibilities in their respective fields, without referral or authorization to the Higher Council or the Ministry of Social Development or any other entity.
3. Amend the text of Article (6) of Law No. 31/2007, specifically those paragraphs related to the establishment of the Higher Council, so that the selection of its members is done in accordance with its primary mission of setting policies and following up on their implementation, and modify the provisions for the representation of DPOs on the Higher Council's Board, to include various disabilities in accordance with effective and specific standards and through clear and transparent mechanism for election.

### ***At the practical level:***

1. Establish a national coordination mechanism in partnership with the various executive bodies, Persons with Disabilities and DPOs to guarantee the monitoring of the application of laws and the National Strategy within the specified time frame.
2. Develop DPOs' skills in the area of advocacy, lobbying and effective monitoring, so as to play its primary role as a partner in decision-making processes, in follow-up and monitoring.
3. Adopt effective standards consistent with the Paris Principles and the principles of human rights, to ensure a transparent and independent national monitoring process, conducted by NCHR in partnership with Persons with Disabilities and DPOs, as required by the provisions of Article (33) of CRPD.

## References

[Back to content page](#)

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- Official site of the National Library - <http://www.nl.gov.jo>
- Official site for the Development and Employment Fund - <http://www.defjo.net/site/ar>
- Official site of the National Aid Fund - <http://images.jordan.gov.jo>
- Official site of the United Nations - <http://www.un.org>
- Official site of the General Command of the Jordan Armed Forces - <http://www.jaf.mil.jo>
- The official site of the Public Organization of Housing and Urban Development - <http://www.hudc.gov.jo>
- The official site of the Higher Council for Persons with Disabilities - <http://hcd.gov.jo>
- The official site of the Higher Population Council - <http://www.hpc.org.jo/hpc/Default.aspx?tabid=39&language=en-US>
- The official site of the National Council for Family Affairs - <http://www.ncfa.org.jo>
- Official website of the Civil Defense Directorate - <http://www.cdd.gov.jo>
- Official website of the Saudi Center for Rehabilitation and Training of Blind Girls - <http://saudicenter.org/portal/index.php>
- Official site of the National Center for Human Resources Development - <http://www.nchrd.gov.jo>
- Official site of the National Center for Human Rights - <http://nchr.org.jo>
- Official website of the Office of the High Commissioner for Refugees (UNHCR) - <http://www.unhcr.org>
- Official site of the Social Solidarity Coordination Commission <http://www.ccss.gov.jo>
- Official website of UNICEF - <http://www.unicef.org>
- The official site of the initiative Sakan Kareem (Decent Housing for Decent Living) - <http://www.hudc.gov.jo/mob>
- Official site of the House of Representatives - <http://www.parliament.jo>
- Official site of the World Health Organization - <http://www.who.int>
- Official site of Radio and Television Corporation - <http://www.jrtv.jo>
- Official website of the Ministry of Planning and International Cooperation - <http://www.mop.gov.jo>
- Official website of the Ministry of Education - <http://www.moe.gov.jo>
- Official website of the Ministry of Social Development - <http://www.mosd.gov.jo>
- Official website of the Ministry of Culture - <http://www.culture.gov.jo>
- Official website of the Ministry of Health - <http://www.moh.gov.jo>
- Official website of the Ministry of Labor - <http://www.mol.gov.jo>
- Official website of the Ministry of Water and Irrigation - <http://www.mwi.gov.jo>
- Official website of the UN Relief and Works Agency, UNRWA - <http://www.unrwa.org>