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ACCORD – Austrian Centre for Country of Origin and Asylum Research and Documentation (Author)

Anfragebeantwortung zu Jordanien: Behandlung von unehelichen Kindern [a-12230]

5. September 2023

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Im Zuge der Recherche für vorliegende Anfragebeantwortung konnten nur wenige aktuelle allgemeine Informationen zu oben genannter Fragestellung gefunden werden. Es wurden daher auch ältere allgemeine Informationen in die Anfragebeantwortung miteingeschlossen.

Das Hohe Kommissariat der Vereinten Nationen für Menschenrechte (OHCHR) ist eine Abteilung des Sekretariats der Vereinten Nationen mit dem Auftrag, Menschenrechte zu fördern und zu schützen sowie Menschenrechtsverletzungen zu verhindern.

OHCHR – UN Office of the High Commissioner for Human Rights: UN Child Rights Committee publishes findings on Finland, France, Jordan, Sao Tome and Principe, Türkiye and United Kingdom,

2. Juni 2023

<https://www.ohchr.org/en/press-releases/2023/06/un-child-rights-committee-publishes-findings-finland-france-jordan-sao-tome>

„The [UN Child Rights] Committee expressed concern about the persistent discrimination against children in disadvantaged situations, including [...] children of unmarried parents [...]. It called upon Jordan to eliminate all discriminatory practices against these groups of children and ensure their access to health services, education, and a decent standard of living.“ (OHCHR, 2. Juni 2023)

Das US Department of State ist das US-amerikanische Außenministerium.

USDOS – US Department of State: 2022 Country Report on Human Rights Practices: Jordan, 20. März 2023

<https://www.ecoi.net/de/dokument/2089239.html>

„Authorities separated children born out of wedlock from their mothers and placed them in orphanages, regardless of the mother’s desire for custody.“ (USDOS, 20. März 2023, Section 6)

Die CRCJO-Coalition ist eine Koalition aus zivilgesellschaftlichen Organisationen, die sich für Menschenrechte, Kinderrechte und soziale Themen einsetzen. Die Koalition wird vom jordanischen Forschungszentrum Information and Research Center – King Hussein Foundation geleitet.

CRCJO-Coalition: Alternative Report on the Implementation of the Convention on the Rights of the Child in Jordan, CRC (Hg.), Juni 2022

https://www.ecoi.net/en/file/local/2082586/INT_CRC_NGO_JOR_49386_E.docx

„Alternative care for children born out of wedlock

Based on an extensive and inclusive participatory action research with children born out of wedlock, a knowledge, attitudes, and practices study with society in Jordan, and a legislative, literature, and review of media coverage; followed by a mass media and advocacy campaign with various government and civil society stakeholders, the agreed upon name for children born out of wedlock is now children ‘deprived of family ties.’ It is recommended that both the Secretariat and the State recognize this as the official term to reduce the social discrimination faced by children and youth born out of wedlock. A request to make the term official was sent to the Prime Ministry’s Office in 2019 from the King Hussein Foundation, based on the recommendation of the Ministry of Social Development, however no response was received. By practice though, both the media and civil society now only use the term ‘deprived of family ties.’ [...]

In a positive step, the last amendment to the Jordanian Personal Status Law of 2019 included the use of DNA testing to prove lineage and gave powers to Sharia judges in assessing that, as it became more flexible in cases of proving lineage for newborn children. Such amendment is very important because it entails many rights such as alimony, custody and inheritance, and most importantly the child’s right to live within a family not care in foster homes, but the law still demands the existence of a marriage contract to prove lineage.“ (CRCJO-Coalition, Juni 2022, S. 13)

„Urge the Prime Ministry to make the name of children and youth ‘deprived of family ties’ official for all children and youth born out of wedlock in Jordan (this was requested in 2019 based on the recommendation of the Ministry of Social Development to the King Hussein Foundation however there was no response). This would eliminate the use of all other terms such as ‘illegitimate’, ‘unknown origin,’ etc.“ (CRCJO-Coalition, Juni 2022, S. 15)

Government of Jordan: Sixth periodic report submitted by Jordan under article 44 of the Convention, due in 2019 [29 August 2019] [CRC/C/JOR/6], CRC (Hg.), 16. Februar 2021

<https://www.ecoi.net/en/file/local/2053939/G2103364.pdf>

„Article 157 of the Act [Personal Status Act], which focuses on establishing the descentance of the child, has been amended to accommodate genetic testing as a way of establishing descentance. The amendment gives courts the authority to establish descentance, an authority that is not restricted by the existence of a valid marriage contract. The Personal Status Act does not use the term child born of adultery, illegitimate child or any other term with negative connotations.“ (Government of Jordan, 16. Februar 2021, S. 26)

Der United Nations Children’s Fund (UNICEF) ist das Kinderhilfswerk der Vereinten Nationen.

UNICEF – UN Children's Fund & UNHCR – UN High Commissioner for Refugees: Background Note on Sex Discrimination in Birth Registration, 6. Juli 2021

<https://www.ecoi.net/en/file/local/2056289/60e2d0554.pdf>

„Civil status laws and regulations in Egypt, Jordan and Palestine make provision for a child who is born out of wedlock to be registered using false names for the parents and/or child, or by omitting their names from the certificate altogether.“ (UNICEF & UNHCR, 6. Juli 2021, S. 10)

EuroMed Rights, im Jahr 1997 als Euro-Mediterranean Human Rights Network (EMHRN) gegründet, ist eine Nichtregierungsorganisation mit dem Ziel, die Kooperation und den Dialog in und zwischen Ländern auf beiden Seiten des Mittelmeeres zu fördern.

EuroMed Rights: Jordan: Situation Report on Violence against Women, März 2018

<https://euomedrights.org/wp-content/uploads/2018/03/Factsheet-VAW-Jordan-EN.pdf>

„Single mothers represent yet another group vulnerable to discrimination and violence, due to social stigma and family pressure. A woman who gives birth out of wedlock can be held in administrative detention for years under the pretext of protecting her life from danger. She normally loses custody of her child, who is registered without his parents’ names and taken to an orphanage.“ (EuroMed Rights, März 2018, S. 5)

Der Menschenrechtsrat der Vereinten Nationen (UN Human Rights Council (HRC), ehemals bekannt als UN Commission on Human Rights bzw. Menschenrechtskommission der Vereinten Nationen), ist ein zwischenstaatliches Gremium innerhalb der Vereinten Nationen, das sich für die Förderung und den Schutz der Menschenrechte weltweit einsetzt.

HRC – UN Human Rights Council: Compilation on Jordan; Report of the Office of the United Nations High Commissioner for Human Rights [A/HRC/WG.6/31/JOR/2], 24. August 2018

https://www.ecoi.net/en/file/local/1446054/1930_1539257330_g1825795.pdf

„The Committee was concerned that children of unmarried mothers were often placed in institutions and it recommended that Jordan provide unmarried mothers with support to enable them to take care of their children and conduct awareness-raising campaigns to eliminate the stigma attached to out-of-wedlock pregnancy.“ (HRC, 24. August 2018, S. 9)

Raseef22 ist ein 2013 gegründetes liberales arabisches Mediennetzwerk mit Sitz in Beirut.

Raseef22: Having a Child Out of Wedlock in Jordan, 14. März 2017

<https://raseef22.net/english/article/1068890-child-wedlock-jordan>

„Stabbed four times, twice in the stomach; Iman* was 23 and pregnant with her first child, when it happened. This was her brothers' reaction. She had never been married before. [...] She was in her final trimester, and so it was decided that a caesarean section would be performed on her, and so she gave birth to a baby boy. The nurses allowed her to look at him from afar, but she was denied the right to hold him, or even choose his name. He was taken to a nursing home before she could lay a finger on him, and she, in turn, was taken to Juweida Women's Prison, while the child's father was also taken to another prison. There, the two of them remained, for five years, in 'administrative detention'. Despite there being no legal basis for imprisoning the mother, Jordanian authorities justify the procedure by claiming that they are protecting her from the potential risk of being killed. [...] Iman's case reflects the same reality experienced by many mothers who have born children out of wedlock in Jordan. Security forces often resort to separating mother from child moments after birth. The child is then registered without the name of a father or mother, before being sent to a nursing home. The mother is then held in administrative detention under the pretext of 'protecting her life from danger'. Authorities customarily resort to such procedures with any women who are deemed 'under threat', such as the potential victims of honor crimes, in a country in which eight such crimes were documented in 2016. Article 157 of Jordan's Personal Status Law stipulates that a child's parentage is registered to the mother upon birth, and that her name is listed in the records. The law moreover provides the mother with priority rights to raise the child. Yet, there are other, contradictory laws that counteract this right, such as the Civil Affairs Law, in which Article 20 stipulates that an 'illegitimate' infant is not registered under the parents' names in a birth certificate, unless a written request is filed by both parents, or by one parent with the support of a final court ruling. In such cases, the notary chooses the parents' names, and any birth registered in violation of the provisions of this article with regards to citing the parents' names is considered void. State authorities justify the article by claiming that it is consistent with the social norms, which are unaccepting of children born out of wedlock. The average number of infants born under their mother's name, without knowledge or registration of their father's names, is 70, all of whom have been sent to the Al-Hussein Social Foundation for Orphans. Dr Fawaz Al-Ratrout, the official spokesperson of the Jordanian Ministry of Social Development, affirms that 'the ministry, as an executive authority, is responsible for providing care for those children until their situation is resolved. The ministry receives the children from the security authority involved in the case.' [...] Mizan Law, a human rights law group, intervened on Iman's behalf after five years of her detention. She wrote to them, expressing her wishes to get out of prison and marry the child's father, and hoping to recover her rights to her child. The organization provided her with legal aid to obtain an annulment for her first marriage (to her relative), and to marry the child's father. They also concluded a reconciliation with her family after they had been estranged for the entire period of her detention. Iman believed that her release from prison would be the end of her suffering and that she would find her child and

build a normal family. But this was not the case. Her husband refused to assume parentage of their child, deeming that he had been 'born of an impassioned impulsiveness'. When Iman searched for the child, the Ministry of Social Development informed her that a foster family had already taken the child. It was then that she knew that her dream was over. 'The chances that my son will be returned to me are nonexistent. His father refused to confirm his parentage, and without that I won't be able to get him back [...]' Director of Mizan Law Eva Abu Halawa affirms that mothers who give birth out of wedlock suffer a great deal of discrimination. 'They can be detained for up to 15 or 20 years under the pretext of protecting their lives, and they're deprived of their children and the ability to provide them with their basic needs on unconvincing bases,' she says. [...] Another problem that Abu Halawa points to relates to the fact that women who have born children out of wedlock are prevented from using the nurseries in prisons. Despite there being an area specified to provide care for inmates' children near their mothers, in order to allow them contact with each other, women who have given birth outside of marriage are denied the right to use these areas. Though there are no specific instructions for the exclusion of children born out of wedlock, the nurseries are nonetheless bound by conditions to ensure the absence of 'risk factors' for the children. Thereby, the Ministry of Social Development and the prison authorities deem the mothers as threats to their children, who must consequently be separated from them, as the child is believed to have been born of an unwanted pregnancy. [...] The government justifies separating the mother from her child and detaining her on the basis that they are protecting Jordanian women from a society that will not accept her. However, foreign women are subjected to the same treatment, whereby they are also detained for bearing children out of wedlock, and are only released upon an order to deport them and the children. In certain cases, some of these women reside in Jordan illegally, such as domestic workers. [...] Over the past years, several rights organizations have issued reports condemning the administrative detention of women at risk, as well as the Jordanian National Center for Human Right, the US State Department, and the Human Rights Council in Geneva. This has pressured the government to announce the formation of a new center to shelter women at risk, rather than detaining them. However, ultimately, such a center is little more than another prison. Moreover, the issue of separating women from their children remains, as there is no nursery nearby, and the laws do not provide allowances for children to remain with their mothers. Even in cases where families mutually reconcile, and the couple ends up marrying after the woman escapes from prison, their children are condemned to remain in nursing or foster homes due to the absence of parental certification. This is attributed to the dishonor perceived in bearing a child before marriage, according to a social worker, who preferred to remain anonymous. 'Thereby, there are children who live in nursing homes because they do not have proof of parentage, while their brothers or sisters live with their parents because they were registered under their parent's names,' she says. [...] The issue of childbirth out of wedlock remains controversial in Jordan, largely governed by societal attitudes that leave women exposed to murder, and children deprived of identities, with the exception of a few whose fathers deign to recognize them." (Raseef, 14. März 2017)

Hind Farahat und Kristen E. Cheney waren zum Zeitpunkt der Veröffentlichung Wissenschaftlerinnen am International Institute of Social Studies (ISS) der Erasmus University in Rotterdam in den Niederlanden.

Farahat, Hind & Cheney, Kristen E.: A facade of democracy: Negotiating the rights of orphans in Jordan; In: Global Studies of Childhood Vol. 5(2), 2015
<https://journals.sagepub.com/doi/pdf/10.1177/2043610615586101>

„On 13 June 2013, 23-year-old Ahmed Robeen stepped to the entrance of the Jordanian Ministry of Social Development, poured gasoline on himself, and set himself on fire, protesting a life with no dignity. Ahmed belonged to a group of Jordanian orphans without lawful lineage. Jordanian family law, following Islamic law, considers children born out of wedlock or to unknown parents to have no lawful lineage. Despite a formal discourse of equal citizenship, they face legal and social discrimination in a society characterized by a tribal sense of belonging and patrilineal entitlements. Following other Arab Spring youth uprisings, a group of youth without lawful lineage organized political protests in July 2012 to bring their issue to the public eye.“ (Farahat & Cheney, 2015, S. 146 – 147)

„To understand why orphans protested - and why they failed to achieve their aims - one must understand their social status and challenges. Two concepts in Islamic law shape orphans' citizenship status in Jordan: lawful lineage and kafalah. Lawful lineage is the 'legally established filiation of the child to the parents and the subsequent establishment of legal rights and claims' (Welchman, 2007: 144). The mother's parental status is established by giving birth; lineage to the father's side requires proof of a lawful relationship in the form of Islamic marriage. Full rights as a son or daughter therefore rest on being conceived within wedlock. This violates children's rights to a name and a family for foundlings, children with unknown fathers, and children who are abandoned by their fathers. Under the Jordanian care system, the state is the fosterer of orphans until someone else offers this gift of care. Kafalah is the Islamic alternative to adoption. According to Welchman (2007), kafalah is a system of care that permits non-relatives to care for children but without the rights given to a lawful child, such as the right to the name of the family, and its inheritance.

Kafalah is treated as a civil contract and regulated in Civil rather than Family Law, which shows that it is not intended to provide a lineage, but only to give care and charity (Bargach, 2002; Welchman, 2007).“ (Farahat & Cheney, 2015, S. 147 - 148)

„Most orphans report that they become homeless after leaving state care. Some manage to rent small places in groups. It is even more complicated for female orphans: either the orphanage administration tries to marry them off to non-Jordanian nationals because Jordanians won't marry women with no lawful lineage or respectable family background, or they end up on the streets after leaving care. If they do not find other jobs, they often turn to sex work. If they become pregnant outside of wedlock, the cycle of unlawful lineage repeats itself with their children. [...]

While orphans with lawful lineage and those from broken families received more pity, orphans without lawful lineage faced more stigma as vessels of shame and the fruit of their parents' misconduct. This view starts with how the state regards them: The Civil Status and Passports Department (2012) identifies children without lawful lineage as a 'problem' that is 'tearing the tissues of social cohesion and defying morality,' according to one of their unpublished handouts. Orphans with no lawful lineage are seen as the embodiment of a change in the structure of the ideal family that does not conform to religiously encoded laws. 'People make you feel as if you're a walking disease,' Rula said. 'Maybe I remind them of what they don't want to know exists in our society. I want to be seen in a better way, not as if I did something wrong.' According to the 'connectivity' that characterizes Jordanian society (Amawi, 2007; Ibrahim and Howe, 2011), the deeds - good or bad - of a kin-group member reflect on the entire group. Orphans therefore threaten the honor of their biological families and bigger tribes. Female orphans in particular are seen as repeaters of sin, imagined as promiscuous and defying

Jordanian social discourse about women's appropriate place and their physical control. Twenty-year-old Riham, who tried to look for her biological parents after leaving state care, explained, I knew at the end which family my father was from. They are a big tribe. When I told my SOS [Children's Village/Amman] foster mother, she told me not to approach them and forget about all this; that they can kill me only to wipe the shame off the family name." (Farahat & Cheney, 2015, S. 148 - 149)

Dina Zbeidy war zum Zeitpunkt der Veröffentlichung Doktorandin an der Universität Amsterdam in den Niederlanden. Im Rahmen ihrer Doktorarbeit beschäftigte sie sich mit Eheschließungspraktiken und -diskursen in der jordanischen Zivilgesellschaft und unter Geflüchteten in Jordanien.

Zbeidy, Dina: More legal flexibility needed for Syrian refugees living in Jordan and elsewhere, bliss [Blog] (Hg.), 25. November 2019

https://issblog.nl/2019/11/25/more-legal-flexibility-needed-for-syrian-refugees-living-in-jordan-and-elsewhere-by-dina-zbeidy/#_ftn2

„Marriage registration is mandatory in many countries, including Jordan, and its importance is inscribed in various international conventions. The non-registration of a marriage has a number of grave consequences in Jordan specifically, since, here, lineage and nationality pass through the father. Therefore, marriage registration is needed in order for children born in Jordan to receive a legal identity and gain access to various rights and services. Indeed, one of the main concerns among organizations and officials revolve around the fact that non-registration can lead to children lacking a recognized national identity. [...]

[Fußnote 2:]

In my interviews with employees of Jordanian development organizations, the scale and impact of unregistered marriages became apparent. I was told about a case of a Syrian couple living in Jordan who had concluded a marriage according to Syrian custom. When the wife went to the hospital to deliver her baby, she was asked by hospital staff for her marriage contract. When she was unable to provide them with one, social services took her newborn baby away and the husband was arrested. While the law discusses the status of an 'illegitimate child', it does not mention the removal of a child. Nevertheless, this practice seems to be a regular occurrence." (Zbeidy, 25. November 2019)

SOS Children's Villages: The National Child Protection System and Alternative Child Care in Jordan, Jänner 2021

<https://www.sos-childrensvillages.org/getmedia/b516f1d8-4150-47f8-a2a2-b4b1ace9fed5/Jordan-Final-Report-Child-Protection-System.pdf>

„Shelters for Victims of Gender Based Violence

Girls and women are placed together in GBV [Gender-Based Violence] shelters. Girls tend to be aged between 14-17 years and are all placed in one facility (Al Khansa). This shelter provides care for girls who are victims of sexual abuse, or are considered as having broken cultural norms e.g. sex out of wedlock, and therefore placed there as protection from 'honour crimes'." (SOS Children's Villages, Jänner 2021, S. 54)

„A report issued by Save the Children in 2015, explains how, Islamic law does not allow adoption but allows what is called ‘Kafalah or Ihtidan’ as forms of care that permits children to be looked after and cared for by a family that are not blood relatives. [...] It is understood that children placed in this form of care are mostly children born that have been abandoned and/or born out of wedlock.“ (SOS Children’s Village, Jänner 2021, S. 59)

Roya News English ist Teil des privaten jordanischen Medienunternehmens Roya Media Group und bietet englischsprachige Berichterstattung, speziell über Jordanien und Palästina.

Roya News: Cassation Court issues life sentence to father who tortured, killed daughter, 13. Jänner 2023

<https://en.royanews.tv/news/24790/2021-01-13>

„Wednesday, the Jordanian Court of Cassation issued a life sentence with hard-labor to a man who tortured his daughter and murdered her because she was born out of wedlock.

In October, the Grand Criminal Court found the man guilty of torturing the murdered person prior to her murder, a felony, in accordance with the provisions of Article 327/4 of the Penal Code.

According to the court decisions, the accused had an extramarital affair with a woman who was also married. The woman then became pregnant with the victim. The husband of the victim’s mother soon uncovered the affair and filed a complaint against the two, claiming adultery. The accused were imprisoned, and the husband of the victim’s mother divorced her while she was serving her sentence.

After she was released from prison, the woman gave birth to the victim.

After the accused was released from prison for the affair, the victim lived in the house of his sister.

The court added, ‘The accused used to hit the victim every day with a bamboo stick that had a pointed head on different parts of her body. He used to hit her head against the wall because he considered her a [child born out of wedlock], and wanted to get rid of her.’

The accused had previously been imprisoned for attempted murder.“ (Roya News, 13. Jänner 2023)

Gulf News ist ein Medienunternehmen in den Vereinigten Arabischen Emiraten mit Sitz in Dubai.

Gulf News: Baby girl found alive in old well in Jordan, 28. Februar 2022

<https://gulfnews.com/world/mena/baby-girl-found-alive-in-old-well-in-jordan-1.86082440>

„A one-and-a-half-month old baby girl was found alive in an old well in Irbid, northern Jordan, local media reported.

The infant was found by a group of holidaymakers who were camping in a place close to the well when they heard a baby crying. They managed to retrieve the girl from the hole and called police. They found the baby wrapped in clothes and dumped in the well.

The baby was taken by police and transferred to hospital before being given to a childcare house. The baby is in a stable condition.

The infant, believed be born out of a wedlock, was allegedly dumped in the old dry well by her mother to spare herself the social stigma as she was engaged in an illicit relationship.

In Jordan, infants found dumped in streets, or in front of mosques or abandoned in desert areas, are called children of unknown parents. They are given special care at childcare houses." (Gulf News, 28. Februar 2022)

The Jordan Times ist eine englischsprachige Tageszeitung mit Sitz in Amman.

Jordan Times (The): Study examines reasons behind child abandonment, 8. August 2023
<https://jordantimes.com/news/local/study-examines-reasons-behind-child-abandonment%C2%A0>

„A total of 105 children were removed from their homes and placed in care facilities due to being subjected to some form of abuse during the first quarter of 2022, according to a study by SOS Children’s Village Jordan.

It also showed that the number of children who were born out of wedlock and admitted into the care centres of the Ministry of Social Development reached 175 during the same period.

The study, made available to The Jordan Times, is titled ‘Evaluating the Needs for the Family Strengthening Programme in the East of Amman’. [...]

Al Hussein Social Foundations received 138 children who come from broken homes, 96 children of unknown fathers and five children of unknown parents in 2021, it added. [...]

During the first quarter of 2022, it received 90 children, including 35 of unknown parentage [out of wedlock], 22 from families at risk of breakdown, 20 with at least one imprisoned parent, eight with divorced parents and five with a sick parent, the study showed.” (The Jordan Times, 8. August 2023)

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