

Submission to Human Rights Council the United Nations Universal Periodic Review of

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Submitted by: Arab Women Organization of Jordan (AWO), Civic Horizons and Information and Research Center King Hussein Foundation (IRCKHF) - (Joint Submission)

Contact Name: Manal Altaieb

Contact Phone/Email: +962 7 9569 1000/m.altaleb@awo.org.jo

Organization website: <https://awo.org.jo/en/home-page/> , <https://irckhf.org/>

Arab Women Organization

The Arab Women Organization of Jordan-AWO is a feminist civil society organization specializing in women's rights and gender equality. Established in 1970 by a group of women activists. As of 2000, AWO has been supported by diversified donors and partnered with several international, Euro-Med, Arab and Jordanian networks. In 2005, AWO established a local network for uniting the voice of women local community-based organizations. As of 2011, AWO started pursuing the end of GBV against Syrian women refugees in Jordan, according to UNSCR 1325.

Civic Horizons

Civic Horizons is a regional consortium present in six countries (Morocco, Tunisia, Libya, Iraq, Jordan and Lebanon). It endeavors to improve conditions for Civil Society (CS) in unique, innovative, and strategic ways. The overall action is piloting a holistic approach that brings together sets of strategies, tools, and knowledge that address the operational space of civil society through policy and legal lenses, as well as social and cultural lenses—with intersectionality and human rights-based approaches as a methodological backbone. This means that the way we seek to create change stands central to the program. The processes we roll out through our activities consider power dynamics and how to share power by creating space at the decision-making table. The values of human rights, transparency, participation and ownership stand central in the governance and management of the program.

Information and Research Center King Hussein Foundation

The Information and Research Center – King Hussein Foundation (IRCKHF) was initially launched in 1996 as part of the National Task Force for Children. Today, the IRCKHF mobilizes knowledge for positive social change. IRCKHF promotes the welfare of children, youth, women, families, communities, and



vulnerable groups by providing objective, multidisciplinary research and analysis to practitioners and policymakers in Jordan and the region, enabling effective socio-economic planning and decision-making.

Limitations to Freedom of Association of Civil Society Organizations in Jordan

1. Introduction:

1.1 In 2023, AWO and IRCKHF conducted a legal analysis of the national legal framework governing the work of associations without religious, political, or labor interests in six Arab nations, including Jordan. The Jordan section findings are utilized for this UPR stakeholder's submission.

1.2 The report also identified legal barriers, administrative restrictions, and practices that impede the formation and work of CSOs in accordance with international standards outlined in human rights conventions and relevant documents.

1.3 The report was compiled using a combination of methodologies. It incorporated doctrinal legal study with the objective of examining legal statutes, concepts, and principles in order to provide a reasonable assessment and correlating conclusion. In addition, a qualitative approach was used to gain a deeper understanding of the law's applicability, practices, and implementation by interviewing Key Informants. This combined method approach produced an in-depth understanding of the legislative framework, uncovered violations of international norms, and evaluated the impact of these violations on associations.

2. The National Legal Framework:

2.1 Article 16 of the Jordanian Constitution of 1952 stipulates the right to establish civil associations and the limitations on this right, consequently playing a significant role in the development of civil associations. Article 16/b says that only Jordanians are authorized to organize associations, provided that their aims are legal, their methods are peaceful, and their internal bylaws do not contradict the Constitution. Article 16/c provides that the formation of associations and their resource management must be governed by law.

2.2 Jordan has joined the Covenant on Civil and Political Rights (CCPR), the Covenant on Economic, Social and Cultural Rights (CESCR)¹, and the Arab Charter on Human Rights². These three conventions were accepted by the Council of Ministers and not ratified by the Parliament³.

2.3 Despite the absence of a provision defining the legal value of international treaties in the constitution, the Jordanian judiciary has established that treaties transcend national laws whether they were approved by Parliament or those deemed not needing this approval⁴. The Constitutional Court also affirmed that it is not permissible to issue a law that contradicts the obligations established by a treaty ratified by law⁵.

2.4 The Associations Law No. 51/2008 oversee the registration and functioning of associations Jordan. It is clear that the law does not meet international standards when it comes to restrictions and oversight by the government. The Law of Public Gatherings No. 7/2004 is also essential legislation when it comes to the work of associations as it regulates peaceful assembly but imposes several restrictions and is selectively applied.

3. Formation of Associations:

3.1 The Associations Law No. 51/2008 sets out the registration process of Associations in Jordan. As a general principle the Law prohibits registration of any Masonic association or any association that has illegal purposes or contradicts the public order in Jordan⁶.

3.2 The Law established a Registry Board (The Board) with the Minister of Social Development (MoSD) as its head. The vice president is the Associations Registrar, while the board is comprised of officials from the ministries of interior, culture, tourism, environment, and political development. On the proposal of the minister of social development, the council of ministers appoints four more individuals with experience in the philanthropic or volunteer sector. Consequently, the government clearly dominates the board's composition⁷.

3.3 The Board has the authority to approve the registration of associations and identification of the concerned ministry that will have a supervisory role over the association.

3.4 Even if all statutory conditions are completed, the Board or Council of Ministers may nonetheless deny registration. According to the Higher Administrative Court, the Public Administration has the ability to deny registration without providing explanations or justifications, and it is always presumed that the decision is made in the public interest⁸.

3.5 Therefore, not only is the formation process contradictory with international standards since it restricts the freedom to associate by requiring registration, but authorities have the discretion to prohibit registration without justification based on judicial precedents. According to one KII, applications to register associations have been denied without justification in a small number of instances.

4. Foreign Funding:

4.1 According to the Associations Law, the association is required to state in its financial records the name of the entity providing the contribution or financing, its amount, the purpose for which it will be used, and any conditions linked with the donation or funding. Foreign funding is permitted under the following conditions⁹:

1. The source of funding or contribution is legitimate and does not compromise public order or morals.
2. The conditions imposed by the donor or funder do not contradict the provisions of the law or the bylaws of the organization.
3. Donations or financing are utilized for the purpose for which they were donated.

4.2 The Council of Ministers must be notified if an association seeks to obtain foreign funds¹⁰. This notification should specify the source of the donation or funding, its amount, how it will be received, the purpose for which it will be disbursed, and any conditions associated with the funding explicitly. If the Council of Ministers does not issue a denial within 30 days of the date of notification, the financing should be considered accepted¹¹. If the Council of Ministers issues a resolution to decline the funding within the timeframe stipulated in the clause, the association must refrain from accepting the donation or funding in question. The denial may be appealed to the Administrative Court within sixty days following notification of the denial.

4.3 The Administrative Court clarified that the 30-day term begins when the council of Ministers is alerted, not when the application is filed to the Registrar or the Board¹². Some NGOs attempt to argue that they have implicit approval if they do not receive a response within 30 days after making an application to the Registrar. However, this argument fails in light of the statute text and Administrative Court interpretation.

4.4 Notably, the Council of Ministers is not required to provide reasons for the denial, The Administrative Court enforced the discretionary authority of the Council of Ministers to refuse funding with no justification. The Administrative court ruled that "The Council of Ministers is the highest administrative authority in the state, and it is also the body responsible for overseeing public utilities. As such, it is the most competent authority to make decisions that serve the public interest, and it has discretion in this regard. It is issued with a presumption of legitimacy, and whoever claims otherwise must show it. Since the plaintiff did not submit proof that the contested decision was issued contrary to the public interest, the decision shall be sound, consistent, and legal"¹³.

4.5 Some representatives of NGOs asserted that all public authorities had granted their approval but were astonished by the Council of Ministers' rejection. In order to secure the approval of the council of ministers, KIs further said that on occasion the representatives from the Registrar Office might intervene in the proposal of an activity involving foreign funding by adding or deleting partners or by allocating specific amounts to government bodies. Also, there is the practice of creating a committee represented by government entities to supervise the implementation of the funded project.

4.6 CSOs assert that the decision-making processes for foreign funding are unclear and lack transparency, making it impossible for many organizations to secure such funding. There

appeared to be a number of unjustified denials of media, human rights, and women's empowerment projects¹⁴. The National Center for Human Rights also expressed concern over such practices and viewed acceptance for foreign funding as evidence of prior censorship¹⁵.

4.7 KIIIs stipulated that funding denial was based on the political opinions of the NGO's administration. It is a strategy to weaken these NGOs, resulting in their closure. Some NGOs reported that their applications were processed in less than 30 days, while other NGOs claimed that officials reviewing their foreign fund transfer applications used arbitrary criteria to delay or reject their applications, effectively shutting down a number of NGOs. Unexplained, multi-month delays in the decision-making process were noted by a number of associations¹⁶.

4.8 Several associations stated that restrictions on international funding rendered them useless. Others reported having to lay off personnel due to persistent government interference, denials of applications for foreign funding, and lengthy delays. According to some non-governmental organizations, the lengthy approval process for even uncontroversial projects and foreign funding impeded civil society¹⁷. These concerns were also raised by the Human Rights Committee established by (CCPR)¹⁸. To further complicate the procedures, banks request government approval to make money transfers¹⁹.

5. Oversight of CSOs' work.

5.1 The competent ministry plays a supervisory role according to the law as it must be notified about date and place of its general assembly meeting and its agenda at least two weeks before the meeting date²⁰.

5.2 The association must notify the relevant minister and registrar at least two weeks prior to the date of its general assembly meeting, location, and agenda. If the association fails to provide the required notification, the meeting is deemed unlawful. The association must also serially record the minutes of the meetings of its administrative board and general assembly, as well as the decisions issued by each of them, at its head office, maintain financial records that detail its income and expenses, maintain a record of its assets and supplies, and maintain any other records required to carry out its activities and works in accordance with its internal Bylaw. The relevant minister and the registrar may each appoint a delegate to attend the meeting of the association's general assembly. In addition, the Board must approve any decisions by the General Assembly to change the association's internal Bylaw.

5.3 The association must also provide the competent ministry with its annual work plan, an annual report detailing its accomplishments and activities in the preceding year, its sources of revenue and expenditures, and any other data required by law, as well as a list of its affiliated members.

5.4 If an association fails to fulfill its legal requirements stipulated in the law, it could face severe penalties, including dissolution and the establishment of a provisional committee to administer the organization. According to KIIs, some NGOs lack the capacity to meet these requirements without external assistance.

5.5 Associations rely on Public Gatherings Law No. 7/2004 to conduct public meetings and organize rallies in the course of their activities. According to this law, notification of convening a public meeting or organizing a march must be provided to the administrative governor at least forty-eight hours before the scheduled time of conduct. The notification must include the names, addresses, and signatures of the meeting's or march's organizers, as well as the meeting's or march's purpose, location, and time.

5.6 In fact, contrary to the legislation, the administrative governor can permit or deny public gatherings and marches. As a result, many demonstrations and public activities were prohibited²¹. NGOs reported that hotels, allegedly at the request of security officials, required them to present letters of approval from the governor prior to holding training courses, private meetings, or public conferences. There were some reported cases of the governor denying approval requests without explanation, according to associations representatives. Without letters of approval from the government, hotels cancelled the events. In some cases, NGOs relocated the events to private offices or residences, and the activities were held without interruption²². In December 2019, Human Rights Watch was forced to postpone a press conference in Amman after authorities did not approve the event but following press reporting of the cancellation authorities quickly granted permission for the event²³.

6. Taxation:

6.1 As a general principle, associations are exempted from Income Tax, however employees pay are subject to this tax. In accordance with Sales Tax Law No. 6/1994, neither Value Added Tax (VAT) nor Sales Tax is applicable when receiving a grant, as grants are not considered taxable services or goods.

6.2 Donations made by Jordanians to associations are not exempted from income tax. Acceptable donations to be deducted from tax are restricted only to government departments, public official institutions, public institutions, or municipalities. Other donations and subscription fees for religious, charitable, humanitarian, scientific, environmental, cultural, sports or professional purposes can only be deducted from income if approved by the Council of Ministers; however, the exempted income cannot exceed one-fourth of the donor's taxable income. Two representatives of NGOs requested to be granted this status, but their requests were ignored.

6.3 Therefore, the current legal framework does not encourage Jordanians and private sector to fund NGOs as they will not receive any tax privileges.

7. Dissolution

7.1 Contrary to international standards, the government has the right to dissolve the association. The board has the right to dissolve the association based on the recommendation of the concerned minister in the following cases:

1. If it is not possible to elect a management board in accordance with the internal bylaws.
2. If the association keeps or utilizes a donation or finance from a non-Jordanian source without the required permits.
3. If the association commits a second instance of the violation for which it was previously warned and did not remove the reasons for the violation within two months of receiving written notice.
4. If the dissolution is accepted by two-thirds of the general assembly members at an extraordinary meeting in line with the rules of the Internal Bylaw²⁴.

7.2 The dissolution decision is of an administrative nature and can be appealed before the administrative court.

7.3 When a government action dissolves an organization, its assets are transferred to any other organization or entity with similar goals and objectives. This entity's name should be specified in the organization's Internal Bylaw. If no such entity is specified in the internal bylaw, the assets are transferred to the Association Support Fund, a separate entity established by law to fund Jordanian associations²⁵.

7.4 Other similar organizations, excluding political parties, are disbanded in the same manner. A political party may only be disbanded by Amman First Instance Court²⁶.

7.5 Through "verification committees" that were established in 2019 to certify the legal status of all registered associations and monitor their financial and administrative performance, the Board closely supervise the operation of CSOs. On the basis of this monitoring, the Board disbanded 166 CSOs in 2020 for breaking laws, regulations, and directives, or for failing to comply with their statutes and achieve the objectives for which they were created²⁷.

8. Summary of Challenges:

The primary obstacles associations confront in Jordan can be summed up as follows:

8.1 Registration is required, and failure to register will result in penalties.

8.2 The government can reject registration without citing a reason. The Higher Administrative Court has confirmed this authority.

8.3 The scope of government monitoring is vast. The reporting standards established by the Law are challenging for the majority of associations.

8.4 The government may refuse foreign funding without justification. The Administrative Court has confirmed this authority.

8.5 The government can utilize the denial of foreign funding to weaken specific organizations, ultimately leading to their demise.

8.6 According to credible claims, the government attempts to interfere with the implementation of foreign-funded projects by proposing the addition of particular partners or distributing funds to government bodies under the threat of rejecting foreign funding.

8.7 The law restricts the formation of coalitions between non-governmental organizations (NGOs) and can impede their work collaboratively.

8.8 Associations are not dissolved involuntarily in accordance with international standards by independent courts, but by government decree.

8.9 The courts apply the law and make no reference to international or regional conventions concerning the right to peaceful assembly. This can be linked to the fact that concerned attorneys are not citing these conventions in their defense, despite the fact that it is well-established that these norms transcend national law.

9. Recommendations:

9.1 In the 2nd²⁸ and 3rd²⁹ Cycles of the Human Rights Council Universal Periodic Review (UPR) Process, Jordan received direct recommendations to amend the Associations Law to remove undue restrictions and facilitate the ability of civil society organizations to seek, secure, and use resources, including foreign funding, in order to ensure the full enjoyment of the right to peaceful assembly and association. In neither instance did the government directly approve these recommendations.

9.2 In order to uphold Freedom of Association as stipulated in international conventions ratified by Jordan, the following recommendations are presented:

- A. All natural and legal persons, nationals and non-nationals, and groups of such persons are allowed to form associations, with or without legal personality. Associations must be entitled to define their own membership requirements, subject solely to the non-discrimination principle³⁰. To avoid government interference, legislation and procedures pertaining to associations must be implemented by an impartial regulating authority. The roles and responsibilities of these organizations must be specified by law and adhere to a clear work procedure³¹. Associations and their members must be consulted prior to the introduction and implementation of any laws, policies or procedures pertaining to their activities. They should have access to information and be notified adequately and in a timely manner about consultation procedures³².
- B. To fulfill international standards, national law pertaining to associations must expressly provide them with the freedom to seek, receive, and utilize funds in accordance with their non-profit purposes. This includes the freedom to undertake fundraising and economic activities in service of the association's goals and objectives. In addition, states should not demand authorization prior to receiving funds³³.
- C. A body of elected or appointed individuals that has final authority over administration, determines policies for a civic organization, and exerts regular control and supervision of its finances, operations, and activities should constitute an association's governing body³⁴. External oversight, when necessary, should be conducted by an impartial and independent body and be limited to the bare minimum of needed institutions and rules for internal governance. It is recommended that representatives of civil society be involved in association oversight management³⁵. Legislation must define this body's authority in accordance with human rights standards. Any sort of inspection by these entities should only be permitted in response to a court order based on legal grounds and international norms. Associations should not be forced to provide specific information such as meeting minutes, membership rosters, or members' personal information³⁶.
- D. In order to obtain special state advantages, such as tax benefits, the process of acquiring Public Utility status should be straightforward, transparent, and comprise distinct phases. Unfavorable decisions should be susceptible to judicial review. The awarding of tax advantages should be impartial, non-partisan, and transparent, based on clear and objective standards, and should not be used to undermine the autonomy of civil society.
- E. Include the promotion of education, health, research, culture, the alleviation of poverty, human rights, minority interests, and the environment among the purposes and objectives of organizations that may qualify for Public Utility Status. To achieve inclusion, a catch-all category such as "or any other organization primarily created for

the public good" should be added.

- F. In accordance with international human rights law, dissolution should only be permitted where there is a clear and imminent threat of a gross breach of national law. It should be strictly proportional to the genuine objective pursued and employed only if milder measures are lacking³⁷. Involuntary dissolution must be done by unbiased, independent courts. If a state entity is granted the authority to dissolve an association administratively, there should be a right of judicial appeal, and the establishment should not be dissolved until the appeal is resolved or the deadline for filing an appeal has passed.³⁸.

¹ Published on 15 June 2006, Issue No. 4764 of the Official Gazette.

² Published on 16 September 2004, Issue No. 4575 of the Official Gazette.

³ Article 33/2 of the Jordanian Constitution of 1952 states "Treaties and agreements which involve financial commitments to the Treasury or affect the public or private rights of Jordanians shall not be valid unless approved by the National Assembly. In no circumstances shall any secret terms contained in any treaty or agreement be contrary to their overt terms".

⁴ See, for example, Court of Cassation Decision No. 599/1999 "International conventions take precedence over the provisions of domestic laws" as well as Court of Cassation decision No. 3965/ 2003 "The jurisprudence and the judiciary of all countries of the world, including Jordan, agree on the transcendence of international conventions and treaties over internal laws, and that the provisions of any internal law that conflict with these international conventions and treaties may not be applied.

⁵ The Constitutional Court, Explanatory Decision No. 1/2020.

⁶ Article 3, Associations Law No. 51/2008

⁷ Article 4, Associations Law No. 51/2008

⁸ Higher Administrative Court, Decision Number 320/2022

⁹ Associations Law No. 51/2008, Article 17.

¹⁰ Article 17/c of the Associations Law No 51/2008,

¹¹ IBID.

¹² See for Example Administrative Court Decision No. 294/2016.

¹³ Administrative Court, Decision No. 194/2016.

¹⁴ ICNL, 2020 Civil Society Organization Sustainability Index for the Middle East and North Africa, 9th Edition – October 2021, p 30.

¹⁵ National Centre for Human Rights, 2020 Annual Report, p 55.

¹⁶ US Department of State, JORDAN 2021 Human Rights Report, Freedom of Association.

¹⁷ IBID

¹⁸ Human Rights Committee, Concluding observations on the fifth periodic report of Jordan, CCPR/C/JOR/CO/5, 4 December 2017, paragraph 32.

¹⁹ ICNL, 2020 Civil Society Organization Sustainability Index for the Middle East and North Africa, 9th Edition – October 2021, p 30-31.

²⁰ Article 14, Associations Law No. 51/2008

²¹ Human Rights Committee, Concluding observations on the fifth periodic report of Jordan, CCPR/C/JOR/CO/5, 4 December 2017, paragraph 32.

²² US Department of State, JORDAN 2021 Human Rights Report, Freedom of Association.

²³ Human Rights Watch, Jordan Events of 2021. Available online [https://www.hrw.org/world-report/2021/country-chapters/jordan], last visited 6 November 2022.

²⁴ Article 20/b, Associations Law No.51/2008

²⁵ Article 25, Associations Law No. 51/2008

²⁶ Article 35, Political Parties Law No. 7/2020.

²⁷ ICNL, 2020 Civil Society Organization Sustainability Index for the Middle East and North Africa, 9th Edition – October 2021, p 30.

²⁸ Human Rights Council Twenty-fifth Session Agenda item 6 Universal periodic review Report of the Working Group on the Universal Periodic Review, Jordan, A/HRC/25/9, 6 January 2014.

²⁹ Human Rights Council Fortieth Session 25 February–22 March 2019 Agenda item 6 Universal periodic review Report of the Working Group on the Universal Periodic Review, Jordan, A/HRC/40/10, 7 January 2019.

³⁰ European Commission for Democracy Through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights OSCE/ODIHR), Guidelines on Freedom of Peaceful Assembly (3rd Edition), 2020, p 17

³¹ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Guidelines on Freedom of Peaceful Assembly, second edition, page 17

³² UN Human Rights Committee, General Comment No. 34 on the Freedom of Expression and Opinion, 12 September 2011, CCPR/C/GC/34; para. 18

³³ See UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report to the UN Human Rights Council (Funding of associations and holding of peaceful assemblies), UN Doc. A/HRC/23/39 (Apr. 24, 2013), Section 20

³⁴ European Commission for Democracy Through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights OSCE/ODIHR), Guidelines on Freedom of Peaceful Assembly (3rd Edition), 2020, p 101

³⁵ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Guidelines on Freedom of Peaceful Assembly, second edition, 2010, pp 91-92

³⁶ Human Rights Committee, General comment No. 37, Article 21: right of peaceful assembly, paragraph 72. The Global Principles on National Security and the Rights to Information (Tshwane Principles), Article 10(E)

³⁷ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Human Rights Council, A/HRC/20/27, 21 May 2012, paragraph 75.

³⁸ The African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, 2017, p 21