

Human Rights with Focus on Gender, Race, and Religion: A Comparative Study Between Jordanian Legislation and International Human Rights Acts

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Abstract

This study sheds light on the role of Jordanian legislation in implementing human rights. It focuses on the development of Jordanian laws to adjust with the current advice to help put an end to discrimination within its society. In addition to discussing the atrocities people of minorities suffer from because of their race, sex, and religion, this research focuses on the root issues that lead to discrimination. This research also focuses on the psyche behind discriminatory acts to further establish what could cause these gaps between the population of people in our current time. It includes the different treaties and laws that punish crimes fueled by hate towards those who are considered different and introduces the possible solutions to assist in eliminating this problem.

Keywords: Discrimination, Race, Gender, Religion, Jordanian legislation

Introduction

Many legislations, bills, treaties, and acts were introduced and acknowledged by different countries around the world to ensure the security of their people and the rights that protect them from different forms of oppression. These forms of oppression might threaten their existence, get in the way of their personal development, or limit their freedom in any shape or form. However, we still find violations in that area that come in the shape of discrimination. Moreover, through history till this day, we find that a person's gender still plays a role in defining what they are capable of. Statistically, the female labor force participation is at 52.9% compared to 80% of males (The World Bank, 2022), that is the tip of the iceberg that hides deep within.

Furthermore, there are major effects witnessed on the normal current of life of a human that faces discrimination, whether occasionally or daily. Such forms of hate that may escalate to physical violence or abuse are a serious threat to all

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communities, which brings us to the importance of having laws in effect to eliminate racism, sexism, Islamophobia, etc. from frequent occurrence if not from existence.

There are many human rights treaties and national laws in effect to help make the world a safer and organized place for all beings with diverse backgrounds to exist in with peace and harmony, the right to life, freedom of speech and expression, the right of having a fair trial all are examples of what a human being is entitled to without any bias.

Considering the modern concept that establishes fundamental rights for every human being regardless of their gender, race, or religion there still is conflict regarding the implementation of different legislations and human rights acts that enable equality, equity, and diversity.

Study Objectives

- This study looks to confine all the possible effects that discrimination has on individuals and societies.
- To put the Jordanian legislation under the scope in regard to the position of these stipulations in the process of implementing these laws in preserving human rights and the elimination of discrimination.

Study Methodology

The analytical method was used in this research, where the federal laws of the United States of America, the Jordanian constitution, and international treaties were analyzed and presented. The descriptive approach was followed in this study to state and describe the basic rights that a person must possess under the federal laws of the United States of America, the Jordanian Constitution, and the international treaties related to this matter. In addition to the extent to which those rights protected by the Jordanian Constitution are compatible with those international laws and treaties.

Literature Review

The Effect of Discrimination on Civil and Political Rights

Despite the measures taken to eliminate the existence of discrimination between people, we find that it still is a major threat that divides humans into categories that should not determine what a person can practice, think, or become a part of.

The main issue stems from prejudices and bigotry that set the standard of who is superior and who is inferior, what is deemed more suitable for one but not for the other, even though biological factors can set the tone for what suits a male rather than a female in certain areas, it still is not the case for all areas where that

could be taken as an excuse which concludes the presence of discrimination and limits a certain gender's freedom. In a general sense, a human is a victim of discrimination imposed on them by another human of a different background, and this is a serious effect on society in a direct manner, it frames the way the society operates and opens doors for unjust treatments based on gender, race, religion, social status, and age.

Furthermore, it could cause a problem in the upbringing of future generations that relies mainly on the practices and teachings of their ancestors, studies show that the human psychology of the ones who discriminate are a set of complex factors that includes their personal history, sociocultural practices, sociological trends and the influence of community and family beliefs. (Keita, 2016) The absence of diversity is one of the root causes of weakness in the society and the ability of the people in it to digest the existence of other individuals that look, speak, pray and eat differently.

Which brings us to the focus of this section, the civil and political rights of a natural person and the effect discrimination has on it. Civil rights guarantee equal protection by law, and must be given by the power of the state, for example the right to vote, the right to having a fair trial, the right to public education. The Hashemite kingdom of Jordan guarantees those rights in the constitution article (6) (Jordanian constitution in English, 1952): Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language, or religion. And again, in article (7) (Jordanian constitution, 1952) which is about the right of privacy, and in article (20): Basic education shall be compulsory for Jordanians and free of charge in Government schools. However, despite the efforts of the Jordanian constitution in preserving those rights, and the human rights agreements that Jordan is a part of, we still find clear violations of law among the people.

One of the most common areas where discrimination occurs is in employment, either by employers that show certain favoritism or preference towards a certain individual or a group of individuals. Moreover, we find discrimination embedded discreetly in monthly wages or annual income. According to statistics that the US census bureau analyzed in the year of 2021, full-time working women earn 84% of what their male counterparts earn (Semega & Kollar, 2021) Many opinions reflect that the employer's way of treatment is the reason wages are different, or being a full-time working woman makes it difficult to tend to the household duties, that in some societies is considered a "female only" job.

Furthermore, practices of religious natures and the freedom that a person has in that sense is guaranteed in the Jordanian constitution, article (14) stipulates:

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

In addition to other factors that we would like to shed light on, the rights of free expression, the right to vote, and election are examples of the political rights an individual must have. The Jordanian constitution (Jordanian constitution in English, 1952) guarantees the rights of freedom of the press, freedom of expression/opinion prohibits slavery, and the right to vote and run for elections in the Jordanian parliament if the conditions set are met. We believe that the presence of discrimination in political rights is rather sensitive, and it does not rarely happen, on the contrary, the ethnic identity of cabinet candidates can determine their election process no matter what measures are taken by the state to prevent that, as we have previously referred to the psychological factors of a natural human, discrimination is an implementation of that psyche in action.

The Role of Law in Prohibiting Discrimination.

There are many stipulations in different legislations and acts that prohibit discrimination of any kind against people, and anti-discrimination is a fundamental human rights issue that remains within breaches to this day. The United States of America was a source of inspiration that influenced other countries of the world regarding the development of anti-discrimination laws, the presence of discrimination within the American community mainly revolves around race and color, we find that the discrimination against African Americans, Hispanics, Asians, and the native people halts their chances from getting fair treatment in different sectors, let alone the verbal and physical abuse that they might experience.

Furthermore, a survey was conducted in 2019 that showed 87% of blacks and 61% of whites said the U.S. criminal justice system treats black people less fairly. (Pew Research Center, 2020) Back in the year 2020 (Wikipedia, 2024), a 46-year-old African American man was arrested after a store clerk allegedly reported he was trying to make a purchase using a \$20 counterfeit bill. Sadly, during his arrest, a white police officer knelt his knee over his neck while handcuffed and lying face down in the street, his mobility was restricted, yet despite his cries for help, he was sent to death. Such police brutality makes us question the power of law in prohibiting such fatal outcomes within practice, was race a factor in this result? If yes, what can we do to prevent it?

Moreover, the role of law that prohibits such acts comes here, with the consequences or punishments that an act of racism, sexism, and anti-religion can bring upon the person that commits it. In the United States of

America, Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law (Title 18, U.S.C., Section 242) is a federal law that punishes by fine or imprisonment according to the magnitude of the crime committed that can lead up to being sentenced for life or death according to the law of each state.

The Matthew Shepard And James Byrd, Jr., Hate Crimes Prevention Act Of 2009 criminalizes violent acts that result in physical injuries or an attempt to result in physical injury committed due to the victim's race, color, religion, gender, gender identity, sexual orientation or disability (the Matthew Shepard And James Byrd, Jr., Hate Crimes Prevention Act Of 2009), however this act did not go without any challenges, the United States Constitution challenges this act, which led the defendants in the case of United States V. Beebe to present a motion to dismiss the indictment urging that section 249(a)(1) which was passed under the thirteenth amendment, exceeds the constitutional power of the congress (United States V. Beebe). We find that despite the law that protects all humans from any hate or discrimination against them, there are breaches within the law itself that contradict what is supposed to protect. Unfortunately, the law can be close to perfection, but not entirely free from any defects or loopholes that can result in major consequences.

As for discrimination against religion, the federal law enacted that any damage done to any religious property, like mosques, synagogues, churches, and cemeteries in Title 18, U.S.C., Section 247 - Church Arson Prevention Act of 1996 (Title 18, U.S.C., Section 247 - Church Arson Prevention Act of 1996) this act considers such actions as federal crimes only if committed due to the religious, ethnic and racial characteristics of that property.

After looking at the laws that protect individuals, we will now investigate what protects citizens in times of conflicts mainly between countries, The United Nations General Assembly finalized and adopted the Rome statute in June 1998 which includes four international crimes: genocide, crimes against humanity, war crimes and the crime of aggression (ICC Rome statute). Those crimes are not to be restricted and are in effect to preserve the basic, primary human rights to life and dignity.

The Range of Implementation of Human Rights Law

Considering what we have discussed in the previous section, this section will highlight the range of the implementation of human rights and the different acts made to achieve the purpose of prohibiting discrimination and preserving rights.

From the researcher's perspective, we find females encouraged to engage in tasks that were previously considered unsuitable or frowned upon by different

communities. There has been a major shift made to empower women to become active agents in economics, business, education, medicine, etc. However, in Jordan, we still find women underrepresented in many sectors, it is mostly due to the social norms that enable men to inflict their decisions onto the women of their families and restrict them from engaging in the same activities a man can become a part of. In addition to the fact that discrimination against gender is still deeply rooted within the culture that prevents a woman from shining or choosing what she would like her future to be, what she aspires to achieve and her independence as a fully capable individual does not need a man to rely on.

A research study conducted by the Information and Research Center – King Hussein Foundation highlighted the different aspects of discrimination that women in Jordan are subjected to, although Jordanian women are highly educated in a general sense, their unemployment rate was at 24.1% in comparison with the unemployment rate of men which was at 17% back in the year of 2019 (Sajdi & Abu Taleb, 2019) The Jordanian constitution says that “Jordanian men and women shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language, or religion” yet still, we find that not implemented between the people in their daily life.

Jordan ratified The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1992 with reservations; this has brought many positive changes towards gender equality, especially women’s rights. What is worth mentioning is the actions the Jordanian government and all sectors are taking to implement CEDAW to achieve women’s participation in the country. However, women are still discriminated against, but this was a step forward in the actions taken to eliminate such ideologies.

All human beings are born equal in dignity and rights, that’s what the first article of the Universal Declaration of Human Rights stipulated (Universal Declaration of Human Rights)⁴ This document was the source of inspiration for many human rights treaties that are recognized globally today. Forty-eight members out of the fifty-eight members of the United Nations in total at that time voted in favor of this declaration, two abstained, two did not vote and none was against. This declaration is one of extreme importance because as previously introduced, it paved the way for the human rights we witness in effect today, later on after the universal declaration was drafted and adopted, in 1966 the two covenants: The International Covenant on Economic Social and Cultural Rights and The International Covenant On Civil And Political Rights (The International Covenant On Civil And Political rights), these two covenants often referred to as

“The International Covenants” along with the Universal Declaration of Human Rights, are known as the “International Bill of Human Rights”.

There are two mechanisms that the United Nations uses to monitor human rights within its system: treaty-based bodies and charter-based bodies. The treaty-based bodies are made up of committees of independent experts that monitor the implementation of the core human rights treaties. As for the charter-based bodies, it is made up of the Human Rights Council, Special Procedures, the Universal Periodic Review, and Independent Investigations. However, this does not happen without barriers that halt the implementation of human rights. These barriers include stigma, discrimination, punitive laws, violence, harassment, and social and economic inequality.

Comparison Between Jordanian Legislation and The International Bill of Human Rights

The Hashemite Kingdom of Jordan is a party to many treaties, two of which are the two covenants: The International Covenant on Economic Social and Cultural Rights and The International Covenant On Civil And Political Rights, Which together in addition to the Universal Declaration of Human Rights are known as the international bill of human rights.

Jordan ratified seven out of the nine core international human rights treaties:

- International Covenant on Civil and Political Rights.
- International Covenant on Economic, Social and Cultural Rights.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Convention on the Elimination of All Forms of Racial Discrimination.
- Convention on the Elimination of All Forms of Discrimination against Women.
- Convention on the Rights of Persons with Disabilities.
- Convention on the Rights of the Child.

Jordan did not ratify the Optional Protocol to that treaty which foresees the establishment of a National Mechanism for the Prevention of Torture, Special Procedures independent experts focus mainly on the prohibition of arbitrary detention and restrictions to freedom of expression.

In the Jordanian constitution, there is a guarantee of citizen’s rights regarding arbitrary detention and arrest, in addition to the freedom of expression; however, there is still a gap in the implementation of those constitutional rights in real life.

Article 2 (2) of The International Covenant on Economic Social and Cultural Rights states: The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised

without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (The International Covenant on Economic Social and Cultural Rights) It is of a great relief to see Jordan a party to this treaty and many others as well, but is there any contradiction between the treaties Jordan ratified and the Jordanian national law?

The main concern in regards to implementing human rights treaties is the fact that social beliefs exist, the ideas and way of life the citizens of a particular country lived in, all the way from their ancestors to the descendants living currently, the old customs and traditions that are considered a foundation to the Jordanian society that the people hold on to and still practice till this day is one of the most influential contradictions that makes this implementation – of human rights treaties – rather difficult, but not impossible.

It is of great importance to speak about what many would refer to as “old fashioned” customs and traditions due to the importance it holds to Jordanian people. We see major developments from this generation regarding their thinking, practices, and overall acceptance. The youth in Jordan frame more than one-third of the total population, and constant movements are made to allow the youth group to engage more politically and socially in decision-making for the development of the future.

Regarding the Jordanian legislation, we see many modifications made to many articles stipulated in different laws such as evidence and execution law, cybercrime law, and the constitution, etc. Such modifications, despite the different opinions and backlashes it receive, still is a step forward in shaping more flexible, resilient, and up-to-date laws that adjust according to what our modern-day life looks like.

Recommendations

Based on the above, the researchers recommend the following:

- To introduce different legislations made for the sole purpose of eliminating discrimination by achieving justice in all forms.
- Encourage all governments to be diverse and inclusive to put an end to discriminatory superiority and give chance for minorities within a community to engage on a political level.
- Encourage countries to create a safe space for freedom of expression on a wider scale and allow the people to voice out their concerns and experiences.
- Impose severe penalties on crimes fueled and committed by hate towards race, sex, and religion.

- To add articles in the national laws that consider discrimination against race, sex, and religion a crime with a punishment that can deter such crimes from happening.
- To educate the people through different organizations on the effects of discrimination on the way of life.

Conclusion

To conclude all of what was previously discussed, we find that the measures taken by different organizations and governments to include all ages, races, religions, and genders of its people and non-nationals are efficient, but not quite enough. Diverse backgrounds and the inability to accept one another are the reason current laws that aim to prevent discrimination exists in our current time. We find it of great importance to constantly encourage, educate, and discuss these matters to eliminate the stigma of what a person can find peculiar just because the person in question is not like them. It is rather difficult to manage massive populations and eliminate the presence of discrimination and hate between people against each other, but with justice, anything can be made possible.

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