

# Jordan

## National legal study on ageism and age discrimination

This study has been produced in connection with HelpAge International's global report, *Advancing equality for older people* →



**Under international human rights law, States agree to combat discrimination and make progress towards equality. This requires the adoption of comprehensive anti-discrimination legislation, which prohibits all forms of discrimination in all areas of life on an open-ended and extensive list of grounds, including age.<sup>1</sup> The law should establish the framework for promoting equality for older people, and put in place the necessary enforcement and implementation mechanisms needed to ensure access to justice and remedy for victims.**

The Jordanian legislative framework does not meet these standards.

### Equality and non-discrimination obligations

Treaty ratification	Ratified	Individual complaints
ICCPR	✓	✗
ICESCR	✓	✗
ICERD	✓	✗
CEDAW	✓	✗
CRPD	✓	✗
CRC	✓	✗
CAT	✓	✗
ICMW	✗	✗
CPED	✗	✗

Jordan has accepted non-discrimination obligations through the ratification of international human rights treaties. The State is party to the International Covenant on Civil and Political Rights (ICCPR), which contains a free-standing right to non-discrimination, and prohibits discrimination in respect of all Covenant rights.<sup>2</sup>

Jordan is also a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as each of the ground-specific treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD). Jordan does not permit individuals to bring complaints directly to any of the UN treaty bodies after exhausting domestic remedies.

### The prohibition of age discrimination

Personal scope	
Has the State adopted comprehensive legislation?	✗
Has the State adopted age-specific equality legislation?	✗
Does the law expressly prohibit age discrimination?	?

Jordan has not adopted comprehensive anti-discrimination legislation or age-specific equality legislation, although several laws have been enacted that have a bearing on the rights of older people.<sup>3</sup> Whilst the State has adopted a Law on the Rights of Persons with Disabilities, which prohibits discrimination on the basis of disability in different areas of life, such as employment, education, healthcare and housing, the law does not specifically relate to older people, or provide express protection against intersectional discrimination.<sup>4</sup> In the absence of such legislation, protections against discrimination are patchwork. The main protection against discrimination stems from Article 6 of the Constitution, which was amended by Royal Decree in 2011.<sup>5</sup> Under Article 6, all Jordanians are declared “equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion”.<sup>6</sup>



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Under the same article, the State is required to “protect the old-aged” and safeguard them “against abuse and exploitation”. It is notable that age is not expressly referenced as a protected characteristic in the first clause of Article 6. In its dialogue with the CEDAW Committee, Jordan has stated that the reference to ‘Jordanians’ extends protection to both men and women.<sup>7</sup> This logic could – in theory – be applied to older people. However, this is not made explicit, and the ambit of this provision remains unclear. Moreover, the article only applies to Jordanians, potentially excluding protection to other groups of older people lawfully residing within the State, including non-citizens and stateless people.

Outside of this constitutional guarantee, Jordanian law contains singular anti-discrimination provisions, which apply in particular legal fields. The main piece of legislation is the Labour Law which, *inter alia*, contains provisions on wage equality for women, and protection against unfair dismissal for particular groups (including trade unions, pregnant women, and for people on sick leave). None of these provisions provide explicit protection to older workers. In 2019, the Labour Law was revised to prohibit the automatic termination of contracts upon reaching the retirement age.<sup>8</sup> Whilst this is a welcome development, the law as a whole offers few substantive legal protections against age discrimination. Under Article 3 of the law particular categories of workers are excluded from the **material scope** of protection, including public employees, family members of an employer, domestic workers, and certain agricultural workers. Specific bylaws have been adopted relating to members of the civil service. Under Article 4 of the bylaws, non-discrimination on the basis of gender, race, religion, or social status, is listed as a general principle of the civil service. Again, this does not explicitly reference older people, although age could – in principle – be considered a form of social status. Article 67 of the bylaws requires civil service employees to observe the principle of non-discrimination in their work, and in their interactions with the public. There are no specific rules governing **justifications or exceptions** under the Law.

Personal scope	
Is multiple discrimination prohibited?	?
Is discrimination based on association prohibited?	?
Is discrimination based on perception prohibited?	?

As noted, Jordanian legislation does not expressly protect against discrimination based on age. Article 27 of the 2017 Law on the Rights of Persons with Disabilities discusses the need to ensure that institutions for ‘the elderly’ are made accessible to persons with disabilities, including through the adoption of accessibility measures and reasonable accommodation. Similarly, Article 29 of the law calls for the mainstreaming of the rights of persons with disabilities in the development of poverty alleviation strategies and policies developed for the welfare of the elderly, as well as in programmes on the detection and prevention of violence. However, there is no general recognition of a prohibition of **multiple or intersectional discrimination** under the law. Nor does Jordanian legislation expressly prohibit discrimination based on **association or perception**.

Prohibited conduct	
Direct discrimination	?
Indirect discrimination	?
Harassment	?
Denial of reasonable accommodation	?

The constitutional equality guarantee does not define **forms of prohibited conduct**. Similarly, discrimination is not defined under the Labour Law or Civil Service Bylaws. The Law on the Rights of Persons with Disabilities does refer to ‘**direct or indirect**’ restrictions or limitations of rights in its definition of disability discrimination, which also includes the **denial of reasonable accommodation**. However, these provisions do not expressly extend to discrimination on the basis of age, and the extent to which the constitutional equality guarantee encompasses these forms of discrimination is unclear. There is no general prohibition of ground-based **harassment** under Jordanian law.<sup>9</sup>

## Equality duties and other equality measures

Alongside eliminating discrimination, States are required to advance equality for members of discriminated groups, including older people. This, in turn, requires the adoption and effective implementation of a comprehensive package of proactive, and targeted equality measures, which seek to identify and address structural barriers to equal participation. To meet their non-discrimination and equality obligations under international law, many states have enacted equality duties that require public authorities, and other duty-bearers, such as employers, and educators, to assess the impact of their policies, and mainstream the rights of discriminated groups in their work.

There is no law in Jordan that expressly mandates, or permits, the adoption of **positive action** measures. Article 6(5) of the Constitution does provide that “the law shall protect (...) the old-aged”, which may be interpreted as a positive action guarantee. However, no rules are established for the operation of this provision, and there is a risk in practice that it could be applied to justify the adoption of discriminatory measures based on paternalistic and ageist assumptions relating to older age. Specific measures adopted by the State for older people falls outside of the scope of the present study.

The Law on the Rights of Persons with Disabilities provides a framework for the adoption of disability specific policies and references the need to include persons with disabilities within **policies and strategies** designed for the welfare of the elderly. However, there is no general duty for public authorities or private bodies to develop age-specific plans. Jordan has, nonetheless, adopted a National Strategy for Senior Citizens (2018–2022), which is overseen by the National Council for Family Affairs.<sup>10</sup> The strategy identifies addressing age discrimination amongst its policy objectives.<sup>11</sup> The strategy identifies gaps in legislation and legal frameworks which impede the enjoyment of older peoples’ rights, including the lack of comprehensive legislation for older people and failure to legislate for criminal offences against older people or to account for offences against older people within domestic violence policies.<sup>12</sup> The strategy recommends amendments to the Labour Law, Social Security Law and the Rights of Persons with Disabilities Act to reflect gaps in protecting the rights of older people.<sup>13</sup> Although broad and cross-cutting, the strategy does not identify instances of age discrimination, or the number of complaints in any sector alleging age discrimination. Similarly, access to remedies and general oversight and implementation of the policy are not addressed. There is no general legal obligation to conduct **equality impact assessment** under national legislation.

## Enforcement and implementation

To ensure access to justice for victims of discrimination, a wide range of measures are required. This includes the establishment and adequate resourcing of institutions empowered to enforce the legal framework; the amelioration of national rules governing evidence and proof in discrimination cases; and the provision of legal aid and assistance, alongside procedural accommodation and accessibility measures, to remove financial and physical justice barriers. While States may adopt slightly different approaches to the enforcement and implementation of equality law, in all cases people who have been subjected to discrimination must be ensured the right to seek legal redress and an effective remedy.

Article 137 of the Labour Law provides that labour disputes shall be heard before the Magistrates Court. Civil remedy, which may include compensation, and an order of reinstatement, may be awarded in cases concerning unlawful dismissal. Considering the above-referenced amendments protecting against automatic termination of contract on reaching the age of retirement, it follows that such termination may form grounds for a civil claim against an employer. Employers who breach the provisions of the law may also be fined. Employees may submit a complaint to the Ministry of Labour, which is empowered to investigate and issue fines. In the absence a right to non-discrimination on the basis of age in the Labour Law, however, this complaints mechanism is limited in scope. There is no procedure established for the transfer of the **burden of proof** in discrimination cases.

Jordan does not have a dedicated equality body, although a Higher Council for the Rights of Persons with Disabilities was established under the Law on the Rights of Persons with Disabilities, and the State’s national human rights institution – the National Centre for Human Rights (NCHR) – is broadly mandated to receive complaints relating to breaches of civil, political, economic, social and cultural rights. In response to a 2015 request from the UN Independent Expert on the enjoyment of all human rights by older persons for information on best practices, the NCHR stated that it had established a specialist sub-unit in 2007 to implement human rights for vulnerable groups, which includes older people.<sup>14</sup> In particular, the NCHR identified the following best practices relevant to older people:

- Receiving complaints and settling them either directly through the centre or through referring to the concerned parties.
- Monitoring the human rights situation of older people and verifying its compliance with international standards, which includes implementing announced visits to elderly care homes.
- Actively participating in formulating the Jordanian National Strategy for older people.
- Issuing regular and periodic reports on the condition of the elderly in the Kingdom.<sup>15</sup>

Notably, the NCHR’s response to the Independent Expert identified that promoting and protecting the rights of older people required specific legislation, alongside the adoption of a specialised UN instrument on the rights of older people to offer guidance to States in this area.<sup>16</sup>

## Gaps and opportunities

The Jordanian legal framework offers very limited protection against discrimination. Within the Constitution, and across national legislation as a whole, the protection offered is very patchy: discrimination is rarely defined, and there is little recognition of key discrimination concepts. The absence of an express prohibition of discrimination on the basis of age is a significant protection gap, and there are few legal

remedies available to individuals whose rights have been violated. Whilst the adoption of a National Strategy on Older Persons, which identifies addressing age discrimination as a key policy objective, is a welcome development, it is not underpinned by legislation that expressly requires the adoption of age-specific equality duties, strategies or mainstreaming of the rights of older people. To ensure full and effective protection against discrimination for older people and for all rights-holders within the State, Jordan must adopt comprehensive anti-discrimination legislation.

### Endnotes

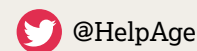
1. For a discussion of the human rights framework on age discrimination see HelpAge International, *Advancing equality for older people, 2022*, available at: [www.helpage.org/AgeEquality](http://www.helpage.org/AgeEquality)
2. International Covenant on Civil and Political Rights, Articles 26 and 2(1).
3. See, non-exhaustively, the Social Security Law No. (1) of 2014, the Civil Retirement Law and its Amendments No. (34) of 1959, and the Military Retirement Law No. (33) of 1959, which set out specific rules on pension benefits; the Financial Aid Instructions for the Care and Protection of Vulnerable Families No. (2) of 2012 and the Zakat Fund Law No. (8) of 1988, which provide for direct financial assistance to older people in poverty, and specific legislation adopted in the areas of healthcare and social security, which establish specific rights guarantees for older people. As these laws do not expressly prohibit discrimination, they are not discussed in further detail here.
4. Law No. 20 of 2017 on the Rights of Persons with Disabilities.
5. Constitution of the Hashemite Kingdom of Jordan, Article 6.
6. *Ibid*, Article 6.
7. Committee on the Elimination of Discrimination against Women, *State Party Report: Jordan*, UN Doc. CEDAW/C/JOR/6, 2015, p.11.
8. Labour Law No. 8 of 1996, as amended.
9. For a discussion of violence and harassment in the workplace, see International Labour Organisation, *ILO in Jordan Launches Campaign on the Right to a Workplace Free From Violence and Harassment, 2020*, available at: [www.ilo.org/beirut/media-centre/news/WCMS\\_748671/lang-en/index.htm](http://www.ilo.org/beirut/media-centre/news/WCMS_748671/lang-en/index.htm)
10. Several other policies adopted by the State directly or indirectly relate to the rights of older people. These include the Jordan Vision (2025); the Comprehensive National Plan for Human Rights (2016–2025); the Strategic Plan of the Ministry of Social Development (2017–2021); the Strategic Plan of the Ministry of Health (2018–2022); the National Action Plan on Demographic Opportunities (2011); and the new National Strategy for Population (2021–2030).
11. 'NCFCA Modernising National Strategy for the Elderly, Jordan Times', [www.jordantimes.com/news/local/ncfa-modernising-national-strategy-elderly](http://www.jordantimes.com/news/local/ncfa-modernising-national-strategy-elderly), accessed 4 September 2021.
12. 'National Council for Family Affairs – National Strategy for Older Persons (2018–2020)', <https://ncfa.org.jo/uploads/2020/08/83e585ba-830a-5f31197f0177.pdf>
13. *Ibid*.
14. 'Questionnaire of the Independent Expert on the Enjoyment of All Human Rights by Older Persons on Best Practices in the Implementation of Existing Law Related to the Promotion and Protection of the Rights of Older Persons, NCHR Response, 2015', [www.ohchr.org/Documents/Issues/OlderPersons/Practices/NHRIs/Jordan%20NHRI.docx](http://www.ohchr.org/Documents/Issues/OlderPersons/Practices/NHRIs/Jordan%20NHRI.docx)
15. *Ibid*.
16. *Ibid*.

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