

Questionnaire by the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special representative of the Secretary-General on violence against children

– Response by the National Centre for Human Rights of Jordan –

06 September 2010

A. Name and date of Creation:

The National Centre for Human Rights (NCHR) was originally created in June 2002.

B. Status of the institution:

- ☒ Separate or autonomous institution, established by law, with reference to the Convention on the rights of the child

N.B.: The NCHR does not have a specific reference to the Convention on the rights of the child in its constituent law.

- ☐ Institution integrated in a general human rights institution (Human Rights Commission / Mediator / General Ombudsperson) with specific legislation

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- ☒ Conformity with the Paris Principles and General Comment no 2 of the Committee of the Committee on the Rights of the Child

N.B.: Article 6 of the NCHR Act safeguards its complete independence in undertaking human rights related intellectual, political, and humanitarian activities and functions, which conform to General Comment no. 2. Also, in 2007 the NCHR was awarded “A” status accreditation by the International Coordination Committee of National Human Rights Institutions in accordance with the Paris Principles.

C. Mandate and Competences:

- Which general principles are contained in the mandate of the institution?

- Which laws? Which treaties?

The NCHR is governed by its constituent law, namely, the “National Centre for Human Rights Law no. 51/2006” (NCHR Act). Article 4 (d) of this Act specifies that the NCHR shall endeavour for the Hashemite Kingdom’s accession to Arab and international human rights charters and conventions. Jordan ratified the Convention on the rights of the child in 1991. In 2006, this Convention incorporated into Jordan’s domestic laws through its publication in the Jordanian National Gazette.

- Affirmation of the principle of independence?

Article 3 of the NCHR Act specifies that National Centre for Human Rights has a distinct legal personality, and enjoys financial and administrative independence. Also, article 6 stipulates that the NCHR shall enjoy complete independence in undertaking its human rights related intellectual, political, and humanitarian activities and functions.

- Best interests of the child?

The Convention on the rights of the child was incorporated into Jordanian domestic law in 2006. The NCHR is strongly committed to the principle of the “best interests of the child”. For example, the NCHR regularly asks that children, who have been sentenced for a crime, be given non custodial verdicts rather, in order to avoid them being isolated from the community. The Jordanian Ministry of Social Development took a step in a similar direction, by deciding to add this principle in the amendments to the Law on Juveniles no. 24/1968.

The NCHR has also succeeded in its efforts to enable children, which have been born outside of marriage, to receive their birth certificate, without the prior consent of one of their parents.

The NCHR has repeatedly advocated for the removal by the Jordanian government of its reservation to article 20 of the Convention on the rights of the child, because this provision is considered as not conflicting with Islamic law.

- What is its overall mission?

According to article 4 of the NCHR Act, the aims of the National Centre for Human Rights are:

- (a) *To enhance the principles of human rights in the Kingdom. In doing so, the NCHR shall be inspired by the tolerant message of Islam, the valued inherent in Arab-Islamic heritage, the rights stipulated in the Constitution of Jordan, and the principles contained in international charters and covenants.*
- (b) *To participate in efforts aimed at promoting human rights principles in the Kingdom at the intellectual and practical levels, as well as the principle of non-discrimination among citizens based on race, language, religion or gender.*

(c) *To enhance the democratic process in the Kingdom with a view of creating an integrated, balanced model based on spreading freedoms, guaranteeing political pluralism, respecting the supremacy of the law and guaranteeing the right to economic, social and cultural development.*

(d) *To endeavour for the Kingdom's accession to Arab and international human rights charters and conventions.*

Also, article 5 (a) indicates that the NCHR has the authority to verify that human rights are being observed in the Kingdom, to address any transgressions or violations thereof, and to follow up on the adoption of necessary measures. Accordingly, the NCHR can employ these means to ensure that national legislation related to human rights is in conformity to international standards.

- **Which powers has it been attributed?**

- **Jurisdiction: public sector/private sector?**

The NCHR deals with both public and private sector actors.

- **Power of investigation:**

- **Referral powers different than those for adults? Can it take up cases as of rights?**

The NCHR does not take up cases itself. It refers complaints to various actors within Jordan, such as the Ombudsman, regional Governors, the Public Security Directorate/Family Protection Department, or law firms. Often, these actors accept to take up the case referred to them.

- **Visit places for children without need for prior authorization (detention centres, schools, hospital, workplaces, children's centres, etc)**

According to article 10 of the NCHR Act, the National Centre for Human Rights has the right to visit reform and rehabilitation centres, detentions centres, and juvenile care homes. It may also visit any public place, which has been reported as being the location of past or present human rights violations. Such places would schools and places of work.

- **Obligation for other actors to provide documentation and /or testimony upon request?**

Article 8 of the NCHR Act stipulates that the National Centre for Human Rights may request any information, data or statistics that it deems necessary for the realization of its objectives from the concerned parties. These parties are required to respond without delay to such requests by the NCHR.

With regard to children's rights, the NCHR has the power to go through and examine all files concerning violence against children, including medical records, forensic reports, and classified juvenile files.

However, it should be noted that the NCHR does not have the power to compel people to give testimony.

- **Possibility for the institutions to refer a case to the courts?**
The NCHR cannot directly refer cases to courts. It can do so only through the Jordanian Bar Association or through domestic NGOs that provide such services.

- **Advice and recommendations on laws and policies:**
 - **Possibility for the institution to make recommendations regarding the adoption of or amendments to law, in particular with respect to the right to effective protection from violence and sexual exploitation?**
Article 5 (j) of the NCHR Act gives the National Centre for Human Rights the power to make recommendations and submit proposals necessary for safeguarding human rights in the Kingdom. Paragraph (l) of the same article enables the NCHR to propose legislation related to the Centre's objectives. Even though the NCHR Act does not make specific reference to the issues of violence and sexual exploitation, the general powers described above would cover such matters.

 - **Possibility for the institution to provide advice on draft laws in order to ensure conformity with the Convention on the Rights of the Child, in particular with respect to the rights to effective protection from violence and sexual exploitation?**
Yes. Please see previous response.

- **Responsibility to promote child participation and taking children's views into account in all matters affecting them?**
The NCHR strives to promote child participation in its activities and through its consultations, with regard to children of different ages, boys and girls.

- **Responsibility to promote human rights/child rights education?**
Article 5 (b) of the NCHR Act states that the National Centre for Human Rights shall endeavour to include human rights principles, especially as stipulated in Islam, in the curricula of the different educational levels. The NCHR succeeded in integrating the concept of human rights in school curricula. It has also collaborated with various stakeholders to establish a national plan for education on human rights issues.

- **Advice provided to children directly?**
The NCHR gives advice directly to children through its legal consultations with children that visit the National Centre for Human Rights. It also gives advice to children during on-site monitoring visits of child detention facilities, or places of work.

- **Is a system/mechanism of individual complaints established and operational within the institution?**
Up until May 2010, the NCHR's Monitoring and Complaints Unit would receive complaints by children or by their representatives. Since May 2010, this task has been assigned to a specialized Unit, namely, the Women's Rights Unit, which deals with issues concerning women and children. In 2006, the NCHR received 38

complaints directly from children. In 2007, the NCHR received 187 complaints; In 2008, the NCHR received 230 complaints; and in 2009, the NCHR received 101 complaints.

D. Level of intervention:

- ☐ Regional
- ☒ National
- ☐ Local
- ☐ Between local and national

E. Functioning of the institution:

- How is the Head of the agency appointed?

According to article 16 (a) of the NCHR Act, the Commissioner General is appointed by a decision of the Council of Ministers, upon recommendation of the NCHR's Board of Trustees. The appointment must be endorsed by a Royal Decree.

- **Which authorities are involved in the process?**

The Council of Ministers, the NCHR's Board of Trustees, and His Majesty King Abdullah II ibn Al Hussein, who issues the Royal Decree.

- **What is the role of civil society in such a process?**

Members of civil society are represented on the NCHR's Board of Trustees.

- **Child participation**

No child participation.

- **Conditions of eligibility?**

The Commissioner General should have a strong knowledge of human rights and high profile résumé to this effect.

- **Conflicts of interest?**

Articles 3 and 6 of the NCHR indicate that the National Centre for Human Rights, which is headed by the Commissioner General, enjoys complete independence. According to article 17 of the NCHR Act, the Commissioner General is required to apply the NCHR's general policy and to follow up on the Board of Trustees' decisions. Article 22 stipulates that the NCHR's Board of Trustees shall issue regulations necessary for the implementation of the NCHR Act.

- **Conditions of resignation?**

The Commissioner General is appointed for a three-year, renewable, term of office. The NCHR Act does not specify the Commissioner General's conditions of resignation. However, he is entitled to tender his resignation to the Council of Ministers.

- How is the staff selected?

The Secretariat of the NCHR is the executive body of the National Centre for Human Rights. It is headed by the Commissioner General. The Secretariat's

employees are appointed and their salaries and all their rights are determined by a decision of the Board of Trustees at the recommendation of the Commissioner General. The NCHR's Secretariat supervises the NCHR's organizational, administrative and financial affairs, including personnel affairs.

- **Child Rights specialists?**

The NCHR's Women's Rights Unit, deals with issues concerning women and children.

- **Lawyers? Psychologists? Social Workers?**

The Unit is currently comprised of two people, namely the Head of the Unit, who is a lawyer, and a Social Worker. An additional lawyer is due to be added to the Unit in the future. The Head of the Unit is required to have at least 5 years relevant professional experience. The other member(s) of the Unit should have at least 3 years relevant professional experience.

- **Full time or part times staff?**

The members of the NCHR's Women's Rights Unit are full time staff members.

- If there is a complaints mechanism within the institution, how is its budget allocated?

There is no specific budget allocated to the complaints mechanism. It forms part of the overall budget of the NCHR.

- **Portion of the overall budget of the institution?**

Information is not available.

- **Budget for a hotline?**

Information is not available.

- **Allocated by the executive? By the Parliament?**

The Centre's financial resources consist of the financial support provided to it by the government of Jordan; by proceeds from financial and cultural activities and projects undertaken by the NCHR; by donations and grants given to the NCHR, subject to the approval of the Board of Trustees and (with regard to foreign donations and grants) by the Council of Ministers; and by wills and waqf endowments.

- **Possibility to raise funds from other sources? (e.g. private sector, international organizations, NHOs, etc)**

Yes. Please see previous response.

F. Participation of civil society and of children in the functioning of the complaints mechanism:

The NCHR receives complaints directly by children, or by their representatives. A network of Civil Society Organizations, under the umbrella of the NCHR, monitors the situation of children all around Jordan. In 2009, these Organizations monitored 2000 cases of violations on children's rights, such as, violations in the field of education, child labour, as well as sexual and physical violations.

- **Specific system for child participation? Representation of children with the institution? If so, of what nature? Representation of girls or of children in difficult circumstances?**

The NCHR does not have a specific system pertaining to the participation of children. However, they often join the NCHR staff in volunteer work, especially during the summer months, in order to expand their horizons. They also participate in specialized workshops, which include sessions on human rights. Finally, children often attend theatre performances on human rights issues.

- **Mechanism of coordination / advice involving civil society?**

There is a network of 37 Civil Society Organizations related to children's rights in Jordan, which operates under the umbrella of the NCHR.

- **What is the nature of cooperation between the institution and civil society organizations? Possibility of signing agreements?**

The abovementioned network of Civil Society Organizations operated under the umbrella of the NCHR. The network works within the NCHR's framework of raising awareness. Also, the NCHR often refers cases to such organizations, which provide legal assistance to children whose rights have been violated.

In 2005, the NCHR signed a Memorandum of Understanding with governmental and nongovernmental stakeholders, in order to promote restorative and rehabilitative justice mechanisms in Jordan, as alternative methods for dealing with children at risk and children in conflict with the law.

Insofar as individual complaints mechanism is in place:

G. Accessibility:

- **To all children, without discrimination? Means by which children can access the mechanism and that are known to them (address, hotline, sms)**

Children learn about the NCHR's services, including its complaints mechanism, through newspapers and media services. The NCHR also has a hotline, and receives calls concerning human rights violations in general.

- **Physical accessibility: Child-friendly reception (trained staff and child-friendly space)?**

The NCHR's staff are trained to receive different kinds of complaints, including complaints by children.

- **Geographic accessibility (local branches? In areas frequented by children?) Does the mechanism depend on existing structures (NGOs, schools) Effectiveness? Relationship between the national and local levels?**

The NCHR is located in Amman, the capital of Jordan. It does not have local branches outside Amman. However, its monitoring activities are largely exercised through its on-site visits of juvenile detention centres or places of work

throughout the Kingdom. It also collaborates with the network of Civil Society Organizations, which operate throughout the Kingdom, include at local levels.

- **Practical/material accessibility (languages; access by children with disabilities)**

The NCHR building is accessible by all children, including children with disabilities. The NCHR offers its services in Arabic and English, and French to some extent.

- **Activities in place to provide information and advice to children, in a child-sensitive manner, particularly to child victims of sexual violence or exploitation?**

The NCHR is involved in various awareness raising workshops, within the context of a Project entitled “protection of children from family violence”. This entails speaking with children and students in general, and includes theatre performances, drawing activities, discussions, and brainstorming.

- **Dissemination of information on the role and existence of the complaints mechanism to potential users?**

Full information about the NCHR’s complaints mechanism is provided to the participants of its workshops.

H. Protection:

- **Description of allegations received and processed regarding violence against children, particularly cases of sexual violence and exploitation (numbers, nature, form)**

In 2008, the NCHR received a total of 230 complaints, 29 of which were received at the Centre’s premises.

In 2009, the NCHR received a total of 101 complaints, 49 of which were received at the Centre’s premises.

These complaints related to the rights to an identity and to nationality, the right to participation, the right to life, the right to play, the right to health care, the right to education, in addition to complaints concerning sexual violence and exploitation.

- **Proactive in visiting structures and private spaces? (number, reports, results obtained)**

There are 9 juvenile institutions and 9 specialized police stations for children in Jordan. In the past, the NCHR would visit these institutions and police stations regularly, within the context of its monitoring and reporting activities. However, due to the small size of the Women’s Rights Unit, which is tasked with dealing with children’s issues and complaints, the NCHR can only visit such places upon request or following a complaint.

The NCHR also visits orphanages and shelters for abused children, and disabled children. The NCHR documents these visits in its internal reports, and usually addresses its comments to the related parties.

The NCHR has also issued five specialized reports with regard to children in conflict with the law and children under risk: the first two reports related to an assessment of juveniles detention centres throughout Jordan; the third report was on the subject of classification of detained children according to the law; the fourth report pertained to the judicial system in Jordan; and the fifth report related to penal treatment of children in conflict with the law.

- **Contribution to child protection policies (legislative reform, child protection strategies)?**

The head of the NCHR's Women's Rights Unit is a member of the National Committee to amend the Law on Juveniles according to Convention on the Rights of the Child. The NCHR is attempting to establish a specialized law for the protection of children's rights given the fact that Jordan incorporated the Convention into its domestic legislation in 2006. The NCHR has also contributed in drafting the National Strategic Plan for Childhood for the years 2004-2013.

I. Confidentiality and protection of the child's right to privacy:

- **How does your institution ensure the protection of the confidentiality of the child?**

Article 11 (a) of the NCHR Act requires the National Centre for Human Rights to maintain the confidentiality of the sources of all information, data and documents it receives.

- **What are the procedures for archiving documents?**

The NCHR has a general complaints registry which records all complaints received. The registry is categorized according to the rights allegedly violated. It may only be accessed by NCHR authorized staff.

- **What kind of relationships does your institution establish with parents/tutors of children?**

The NCHR pursues a positive and constructive relationship with parents as well as law-enforcement officials in order to promote the best interests of the child.

- **Are there any mechanisms of coordination with NGOs, associations or institutions for children? With other human rights mechanisms?**

The NCHR has created a network of representatives of Civil Society Organizations involved in children's affairs. The network operates under the umbrella of the NCH. Its main goal is to protect and promote children's human rights, and targets different actors in society such as students, tutors, social workers, families and the children themselves.

J. Follow-up / Evaluation:

- **Follow-up of judicial procedures?**

The NCHR has issued a specialized report on judicial procedures for juveniles and children under risk. It has also undertaken training of judges and prosecutors in relation to children's issues. The NCHR is currently in the process of issuing a complaints manual, which will include a section on the protection of children's rights.

- **Follow-up of child victims, particularly child victims of sexual violence and exploitation?**

The NCHR gives children legal advice when receiving complaints or during its on-site visits. It also refers cases to the Public Security Directorate or to children's shelters, where they will receive various services such as psychological and social counselling, and legal aid in many cases.

- **Obligation of annual reporting? If so, to which authorities?**

The NCHR has issued five specialized reports for children in conflict with the law. Also, a specific chapter relating to children's rights is included in the Annual Report of National Centre for Human Rights, which is examined and adopted by the NCHR's Board of Trustees. According to the NCHR Act, the Annual Report must be submitted to the House of Notables, the House of Deputies and the Council of Ministers. However, it is accessible by all interested parties because it is made available on the NCHR's website, in both Arabic and English.

K. Challenges, Good Practices and Recommendations:

- **Challenges**

Since its creation in 2010, the NCHR's Women's Rights Unit has been under staffed, which has negatively impacted its capacity to receive and process complaints related to human rights violations of children.

The NCHR does not have offices outside of Amman. Therefore, the northern and southern regions of the country are not provided with a mechanism that can deal with the specialized issues that are raised by complaints involving children.

There is a gap in the NCHR Act that does not oblige governmental bodies to take up cases referred to them by the NCHR.

- **Good practices**

The NCHR has the capacity to visit any location in Jordan where a human rights violation has allegedly taken place.

In November 2009, the government amended the regulations applicable to civil servants. As a result, civil servants working in schools, for instance, are subject to stricter penalties in relation to child abuse and corporal punishment.

The NCHR is working on an having the Law in Juveniles, which dates back to 1968, amended in order for it to be compatible with the obligations imposed by the Convention on the rights of the child.

- **Recommendations**

The NCHR believes it is vital to empower children in order for them have recourse to the proper procedures and authorities when their rights are violated.

Furthermore, the NCHR stresses the need for adequate training so that persons who deal directly with children, such as police officers, staff working in children's shelters, NGO activists, etc., can do so consistent with the requirements of the Convention on the rights of the child.

There is also a need to establish a national body with a specialized database used to monitor and follow up on the implementation of the Convention on the rights of the child as well as the recommendations of the Committee on the Rights of the Child.