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5559173. Charity number
1113288.

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The Equal Rights Trust

Parallel report submitted to the 51st session of the Committee on the
Elimination of All Forms of Discrimination against Women (CEDAW)
in relation to the fifth periodic report submitted by:

The Hashemite Kingdom of Jordan

January 2012

Statement of Interest

1. The Equal Rights Trust (ERT) submits this parallel report to the United Nations Committee on the Elimination of Discrimination Against Women (the Committee) commenting on the report by the Hashemite Kingdom of Jordan (Jordan) under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention). This submission focuses on Jordan's compliance with Articles 2 of the Convention.
2. ERT is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. Established as an advocacy organisation, resource centre and think tank, it focuses on the complex relationship between different types of discrimination and inequality, developing strategies for translating the principles of equality into practice.

3. In the course of its mission, ERT undertakes research on the patterns of discrimination – including gender based discrimination – which prevail in different states, and of the adequacy of domestic legislation and policy to address these forms of discrimination. In respect of Jordan, ERT has followed with interest the on-going process of Constitutional reform, and the extent to which these reform attempts will lead to the creation of the basic legal framework required to address issues of discrimination and inequality in the country.

Article 2 – Policy Measures

4. ERT is particularly concerned about the current provisions of article 6(i) of the Jordanian Constitution which only lists race, language and religion as prohibited grounds of discrimination. The failure to expressly prohibit discrimination on the basis of gender amounts to a significant failure on Jordan's part to fulfil its obligation under Article 2 (a) of the Convention, which requires states to “embody the principle of the equality of men and women in their national constitutions”. The explicit prohibition of discrimination on the basis of gender if included in the Jordanian Constitution would give women a legal ground to challenge inequality. Such an inclusion would also send a clear message that the government will not tolerate discrimination against women, which is essential to the elimination of discrimination in practice.
5. ERT is further concerned by the lack of protection in the Jordanian Constitution against discrimination on other grounds which are particularly important to eliminating all forms of discrimination against women. The inclusion of “pregnancy or maternity” and “civil, family and carer status” as protected grounds in Article 6 of the Constitution would substantially increase the protection which women enjoy. The Declaration of Principles on Equality, a document which was drafted and adopted in 2008 by 128 prominent human rights and equality advocates and experts, includes these grounds of discrimination in its definition of discrimination.¹ The Declaration has been

¹ *Declaration of Principles on Equality*, published by The Equal Rights Trust, London 2008, Principle 5.

referred to as the “current international understanding of Principles on Equality”.²

6. The absence of “sex” and “gender” in Article 6 of the Constitution is further compounded by the lack of either comprehensive or specific anti-discrimination law regulating discrimination against women in the public and private spheres. To make the right to non-discrimination effective in practice, specific, detailed legislation is necessary to define and prohibit all of the different forms of discrimination experienced by women, which fall within Article 1.³ Such anti-discrimination legislation must apply to both state and non-state actors, and define direct and indirect discrimination, harassment and multiple discrimination. While Article 6 of the Constitution purports to prohibit discrimination, there is no ordinary legislation in Jordan defining and prohibiting all forms of discrimination against women in the private and public spheres, including direct and indirect discrimination, multiple discrimination, discrimination by association, segregation and harassment. The Declaration of Principles on Equality includes these forms of discrimination in its definition of discrimination.⁴ The absence of such provisions represents a violation of the Jordan's obligations under Article 2(b) to “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”.

Recommendations

7. ERT strongly recommends that the state party be urged to:
 - remove its remaining reservations to the Convention.
 - amend its Constitution to include “gender”, “pregnancy or maternity” and “civil, family and carer status” as prohibited grounds in Article 6(i);

² *Naz Foundation v. Government of NCT of Delhi and Others* WP(C) No.7455/2001, Para. 93.

³ The Declaration of Principles in Equality contains a principle on specificity of equality legislation, according to which “The realisation of the right to equality requires the adoption of equality laws and policies that are comprehensive and sufficiently detailed and specific to encompass the different forms and manifestations of discrimination and disadvantage.” (See above, note 13, Principle 15.)

⁴ *Declaration of Principles on Equality*, published by The Equal Rights Trust, London 2008, Principle 5.

- explicitly prohibit direct and indirect discrimination, multiple discrimination, discrimination by association, segregation and harassment and make provision for the achievement of substantive equality in the private and public spheres in ordinary legislation.

Conclusion

8. ERT believes that the current process of constitutional amendment offers the state party an opportunity to ensure that the new Constitution adequately provides for and protects the right to non-discrimination. In order to meet its international obligation under Article 2 of the Convention, the state party should ensure that it places the right to non-discrimination at the heart of its constitutional and legislative reform process.