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Meera Alma'aitah: The laws and policies regarding refugees in Jordan

ABSTRACT

This article seeks to address a crucial issue concerning the absence of legal frameworks in Jordan that govern asylum and refugee matters. Due to the country's experience in dealing with numerous waves of refugees, it has become a regional and international leader in the field, making it essential to establish appropriate laws. The study aims to confront and correct any erroneous legal interpretations resulting from the lack of specific Jordanian legal articles on asylum. It explores the reasons for the absence of legislative formulas, taking into account internal and external factors, including economic and political circumstances, which have hindered the creation of legal frameworks. The study is comprehensive and considers all specifics, while also avoiding any potential sensitivities between Jordan and other nations.

Keywords: refugees ■ asylum seekers ■ human rights ■ UNHCR ■ conventions ■ politics ■ economy ■ Jordan

I. INTRODUCTION

Jordan has been a significant recipient of refugees throughout its history, with multiple waves of refugees arriving before and after the establishment of the Kingdom of Jordan. However, the refugee crises that occurred after the establishment of the Kingdom were unique in their demographic and cultural impact on Jordanian society due to the large numbers of people involved. As a result of its experience with refugees, Jordan has become an important country on the international stage.

Jordan is recognized for its humanitarian, moral, and religious commitment to supporting asylum and refugees, despite having limited resources to handle such crises. Its stable and safe environment has made it an attractive destination for those seeking refuge, although these crises have negatively impacted on Jordanian society.^[1]

[1] Esteh, 2014, 48.

One significant shortcoming is the lack of legislation related to asylum and refugees, leading to recommendations and conclusions about the deficiencies in Jordanian law in this area. Despite these challenges, Jordan remains dedicated to supporting refugees and upholding human rights principles.

II. CONSTITUTIONAL PROVISIONS

Article 21(1) of the Jordanian Constitution provides that “political refugees shall not be extradited on account of their political beliefs or for their defense of liberty.”^[2]

Jordan has not established any laws that govern the situation of refugees, including those who flee their countries for political reasons. Also, Jordan is not bound by any international agreements or treaties related to refugees as it has not signed or ratified the 1951 Convention on the Status of Refugees or its 1967 Protocol, as stated in a report by UNHCR in 2013. The Law No. 24 of 1973 regarding residency and foreigners’ affairs is applicable to both refugees and asylum-seekers in Jordan, as it encompasses all foreigners without differentiating between refugees and non-refugees. Article 2 of the law defines a foreigner as an individual who does not possess Jordanian nationality. Even though the law mentions refugees in certain sections, it does not specify them as a distinct group. As a result, the United Nations High Commissioner for Refugees (UNHCR) signed an agreement with the Jordanian government on July 30, 1997, which outlined specific issues to help the High Commissioner’s Office provide humanitarian aid and international protection to refugees and other individuals protected by the UNHCR in the Hashemite Kingdom of Jordan. Additionally, a memorandum of understanding was signed in 1998 and partially amended in 2014. The first article of the memorandum contained a definition of a refugee that was influenced by the definition of a refugee in the 1951 Convention. The above-mentioned agreement neither discussed the rights and responsibilities of refugees, nor did it signify any duties or commitments towards them. The primary aim of the agreement was to establish Jordan as a provisional host nation that would offer safety and refuge to the UNHCR, its personnel, and operations, with the ultimate goal of finding a resolution for the refugee crisis.^[3]

III. MEMORANDUM OF UNDERSTANDING BETWEEN JORDAN AND THE UNHCR

The 1998 Memorandum of Understanding granted the Commission extensive authority, allowing it to communicate with the relevant Jordanian authorities

[2] Constitution of the Hashemite Kingdom of Jordan.

[3] Memorandum of Understanding Between the Government of Jordan and UNHCR (Apr. 5, 1998).

and collaborate with them, including the Ministry of Interior through the Coordination Office set up within the Ministry. It also permitted communication with security agencies, such as those responsible for residency, borders, and legal enforcement, as well as the Ministry of Foreign Affairs and other foreign entities.

In 2003, the agreement between UNHCR and Jordan was expanded and developed into a formal letter of understanding signed in April of that year. This letter of understanding aimed to address any humanitarian crises that require international and humanitarian assistance. Under the terms of the agreement, the Jordanian government and the UNHCR work together to provide international and temporary protection as well as humanitarian aid to refugees. The agreement also established a temporary shelter for those fleeing from Iraq, known as the Regional Temporary Shelter.

As a result of negotiations between Jordan and the United Nations High Commission, several agreements were reached, including facilitating the Commission's work and assisting beneficiaries who require international protection. Additionally, measures were put in place regarding entry and immigration procedures, and the principle of non-expulsion of refugees outlined in Article 2 was adhered to. The agreement also allowed UNHCR employees to meet with asylum seekers who entered the country illegally, as per Article 3. Furthermore, Article 10 included provisions to exempt individuals from fines for overstaying their residency and departure tax.

Jordan and the UNHCR came to an agreement to uphold certain rights and benefits of refugees and asylum seekers, including (1) the right to practice their religion and provide religious education to their children, and freedom from discrimination based on race, religion, or nationality, provided that these religious rights do not violate any laws, regulations, or public morals, and (2) the right to access courts of law without any discrimination and with the same legal assistance as Jordanian citizens, if possible.^[4] Top of Form.

As per the agreement between Jordan and the UNHCR, the UNHCR is permitted to conduct interviews with asylum seekers who enter Jordan through illegal means, and the UNHCR is required to determine their status within seven days. In case of certain exceptional circumstances where a different procedure is necessary, the determination process should not exceed one month.

According to an article published in the Jordan Times, the Memorandum of Understanding was amended in 2014. The amendment extended the period for the UNHCR to process refugee applications from "between 21 and 30 days" to 90 days and increased the validity of a refugee identification card to one year instead of six months.^[5] However, a 2015 report by the International Human Rights Clinic and the Norwegian Refugee Council indicated that the 2014 amendment was not released to the public.

[4] Id. art. 6.

[5] Khetam, 2014.

Given the significant waves of refugees received by Jordan throughout its history, it is unsurprising to observe notable legal shortcomings in the legislation concerning asylum issues. In the following, this article will focus on the fundamental factors that have hindered the development of legal regulations on asylum issues and their critical themes.

IV. THE POLITICAL FACTORS

There are political obstacles that have hindered the creation of legal regulations related to asylum issues in Jordan. Throughout different stages of its development from an emirate to a kingdom, the Jordanian monarchy has faced internal political challenges. Additionally, regional instability and the country's parliamentary life have left little room to prioritize the issue of refugees. It is important to note that the right of asylum is traditionally reserved for the state, which has the authority to accept or reject asylum requests based on its sovereignty over its territory. This principle is linked to the legislation of each state, based on the theory of sovereignty.^[6]

Due to the unstable political climate and societal tensions during the early years of the Jordanian monarchy, the internal elites were divided by political and intellectual differences, some of whom had connections with foreign interests. Moreover, the governments in charge of devising legal and legislative frameworks faced political instability, hindering the progression of constitutional processes.^[7]

The process of passing legislation goes through several stages, starting with the submission of a draft law and its reasons by the Prime Minister to the Parliament Speaker, followed by referral to the relevant parliamentary committee along with a report. Eventually, it is presented to the National Assembly for approval, amendment, or rejection. This lengthy legislative process may present a significant obstacle to enacting refugee laws, which is further compounded by other factors that impede the consideration of legislative issues pertaining to asylum cases. Additionally, the instability of parliaments that are dissolved before their term exacerbates this situation. For instance, there have been cases where councils remained active for one month only or slightly more. This state of instability renders it difficult for councils to enact legislation.^[8]

[6] Hasawi, 2008, 36.

[7] Al-Tawalbeh, 2010, 36.

[8] Adapted from Al-Masalha, 1999, 35.

V. THE ECONOMIC FACTORS

In terms of the economy, Jordan's resources are limited, and its economy is heavily dependent on two main sources. Firstly, foreign aid, which in 2018, amounted to \$2.99 billion from various international donors and institutions, according to the Minister of Planning and International Cooperation.^[9] Secondly, remittances from Jordanians working abroad, which constituted 14% of the total national income between 2000-2014, but decreased by 2.8% in 2016 due to regional crises, as stated by the Governor of the Central Bank of Jordan.^[10] Jordan's economy is closely tied to its relationships and interactions with other countries, both regionally and internationally. Any disruption to either of these two sources will have a direct impact on the Jordanian economy. As a result, Jordan is cautious in its external relations with other countries.

Hence, the decision-making process in Jordan cannot be deemed entirely sovereign as the country's scarce resources, mainly economic, often compel it to acquiesce, either directly or indirectly, to the demands of its supporters and the nations where its expatriates live. This is necessary to ensure that Jordan does not lose either of its two crucial sources of income on which its economy relies heavily.

Due to the economic constraints and reliance on external support to sustain its economy, Jordan has adopted a constructive neutral stance towards drafting legal legislation on asylum and refugee issues. The country is careful not to upset its donors or countries where Jordanian expatriates reside. Jordanian policy-makers believe that delving into these issues may bring more harm than benefit to the country's economic and political stability.

VI. THE SOCIAL EFFECTS

The social impact of the refugee crisis has been felt in various forms and has had direct consequences, particularly in the areas of employment and the labor market. Syrian workers who are willing to work for lower wages have replaced Jordanian workers, resulting in higher unemployment rates among Jordanians. This situation has had negative consequences for the administration of the state and has created a new problem that is worsening without a solution in sight. Furthermore, the psychological burden on Jordanian society is gradually increasing due to the refugee crisis.^[11]

In addition to the previously mentioned social impacts, there are also new challenges facing Jordanian society, including drug abuse, crime, and underage

[9] Al-Fakhoury, 2017.

[10] Al-Dubaisiyah, 2016.

[11] Al-Hilweh, 2013.

marriage. The influx of Syrian workers across all sectors has created significant challenges for the Jordanian economy and workforce.^[12] The presence of refugees has also affected Jordanian charitable organizations, resulting in decreased aid to poor Jordanian families. To avoid creating tensions between the Jordanian community and Syrian refugees, the government allocated 20% of international aid to support poor Jordanian families (International Labour Organization).^[13]

Subsequently, new cultural challenges have emerged and are posing a threat to the integrity of Jordanian culture as a whole.

VII. CONCLUSION

It can be inferred that Jordan has refrained from developing legal frameworks for legislation pertaining to refugee issues due to a range of factors influenced by the country's internal and external conditions. It is evident that the approach to addressing asylum and refugee issues is inextricably linked to the political and economic circumstances both domestically and internationally.

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[12] Al-Quds Al-Arabi, No. 7581.

[13] International Labour Organization.

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