



## EMPOWERING WOMEN IN JORDANIAN LEGISLATIONS: A STUDY IN LIGHT OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) AND THE AMENDMENTS TO THE JORDANIAN CONSTITUTION IN 2022

<sup>1</sup>HAZEM SULEIMAN TOUBAT, <sup>2</sup>NISREIN FATEHI UDWAN

<sup>1</sup>Assistant professor at Department of Public Law/ Faculty of Law/ Yarmouk University/ Jordan. Email: [hazem.toubat@yu.edu.jo](mailto:hazem.toubat@yu.edu.jo)

<sup>2</sup>Assistant professor at Department of Public Law/ Faculty of Law/ Yarmouk University/ Jordan. Email: [nisrein.adwan@yu.edu.jo](mailto:nisrein.adwan@yu.edu.jo)

**Abstract-***Jordan has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) with reservations about some of its provisions for reasons related to the state's religious and national identity. Therefore, Jordanian legislations varied in terms of their compatibility with this Convention. On the other hand, a new text was added to the Jordanian Constitution under the 2022 amendments aimed at empowering women and protecting them from all forms of violence and discrimination. This added text raised the question of whether it paves the way for the lifting of reservations to CEDAW. In light of this added constitutional text, this study seeks to address and analyze Jordanian legislation to determine their role in empowering women, and to indicate their compatibility or incompatibility with CEDAW. This study concluded that Jordanian legislations include many provisions aimed at empowering women politically, economically and socially in a manner consistent with CEDAW, while preserving the regulation of the issue of nationality, personal status and family affairs in accordance with the interests of the state and its religious affiliation, and in contravention with CEDAW. The study recommended the necessity of stipulating in the constitution to grant Jordanian nationality to the children of Jordanian women married to non-Jordanians as a woman's right, and then lifting the reservation regarding this matter in CEDAW.*

**Keywords:** *Jordanian constitution, Jordanian women, Women's Rights, personal status, Jordanian nationality, family affairs.*

### INTRODUCTION

*Empowerment of women is one of the concepts that have captured the attention of many international and local organizations. This concept has been adopted by some international conventions issued by the United Nations, the most important of which is CEDAW,<sup>1</sup> which aims to prevent discrimination between men and women in law and practice, and in all economic, social, cultural and political fields regardless of any religious or social considerations. This absolute equality between men and women prompted Jordan to formulate reservations to some provisions of this convention related to the family and personal status, due to their conflict with the religious and*

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<sup>1</sup> Ahmad, N., Othman, R., Ghazali, N., & Syuhada, N. (2017). Cedaw Implementation in Malaysia: An Overview of Reservations from Islamic Perspective. *Intellectual Discourse*, 25(Special Is), 615-635.



social values of society, where Islamic Sharia in Jordan is the main reference in regulating family and personal affairs.<sup>2</sup>

In 2022, several amendments were made to the Jordanian constitution. One of the justifications for making these amendments is that they aim to empower women, enhance their active role in building society, and protect them from all forms of violence and discrimination. This goal has been translated by adding Paragraph (6) to Article (6) of the Constitution to stipulate that: “The state shall guarantee the empowerment and support of women to play an active role in building society, in a way that guarantees equal opportunities on the basis of justice and equity, and protects them from all forms of violence and discrimination”. The amendments also included an amendment to the title of Chapter Two of the Constitution, which was entitled “Rights and Duties of Jordanians” to become “Rights and Duties of Jordanian Men and Women”.

These amendments were preceded by the issuance of Local Administration Law No. (22) of 2021,<sup>3</sup> which expanded the scope of women's participation in the management of local and municipal affairs. They were also followed by the issuance of a new law to elect the House of Representatives,<sup>4</sup> and a new law for political parties that include special provisions aimed at empowering women politically and giving them a role in this field equal to that of men.<sup>5</sup>

The 2022 constitutional amendments related to the empowerment of women raised a question about their relationship to CEDAW, on the grounds that these amendments pave the way for lifting the reservations made by Jordan on some provisions of this convention related to personal and family issues that are regulated in accordance with Islamic Sharia.<sup>6</sup>

The 2022 constitutional amendments related to the empowerment of women raised questions about their relationship with CEDAW, on the grounds that these amendments pave the way for lifting the reservations made by Jordan on some provisions of this convention related to personal and family issues that are regulated in accordance with Islamic Sharia. They also raised questions about their impact on Jordanian identity, by claiming that they paved the way for amending the Jordanian Nationality Law of 1954 to allow the granting of Jordanian citizenship to children of Jordanian women married to non-Jordanians. isWhereas, the term “discrimination” in the added constitutional text<sup>7</sup> defined under Article (1) of CEDAW, as:

“Any distinction, exclusion or restriction made on the basis of sex, and whose effects or purposes are to undermine recognition Women, on the basis of equality of men and women, have human

<sup>2</sup> Jordanian Constitution, Articles (105, 106) Article 105. “The Sharia Courts alone shall have the jurisdiction - in accordance with their own laws - in the following matters: 1. Matters of personal status of Moslems. 2. Cases of blood money (Diya) if the two parties are both Moslems and one of the parties is not a Moslem and the two parties consent to that the right of jurisdiction be for the Sharia Courts. 3. Matters pertaining to Islamic (Waqfs). Article 106 states that: “Sharia Courts shall in their jurisdiction apply the provisions of the Sharia”.

<sup>3</sup> Local Administration Law - No. (22) of 2021, issued in the Official Gazette No. 5746 dated 09/23/2021 on page 4114.

<sup>4</sup> Election Law for the House of Representatives - No. (4) of 2022, Issued in the Official Gazette No. 5782 dated 04/07/2022 on page 2865.

<sup>5</sup> The Political Parties Law, issued in the Official Gazette No. 5358 dated 16/09/2015 on page 7835.

<sup>6</sup> Nada AlTaher. Jordan adds new reference to women's rights to constitution after parliament brawl. MENA, Jan 03, 2022. <https://www.thenationalnews.com/mena/jordan/2022/01/03/jordan-adds-noun-for-women-to-constitution-after-parliament-brawl/>

<sup>7</sup> Middle East News | Jordan 'Jordanian Women' Added to the Kingdom's Constitution After Parliament Brawl <https://www.haaretz.com/middle-east-news/jordan/2022-01-03/ty-article/jordanian-women-added-to-the-kingdoms-constitution-after-parliament-brawl/0000017f-f748-d044-adff-f7f9de150000>

*rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, or nullify the recognition, enjoyment and exercise of these rights by women regardless of their marital status.”*

Accordingly, this study aims to clarify the impact of the amendments to the constitutional amendments of 2022 related to the empowerment of women in lifting the reservation on CEDAW and then studying Jordanian legislation that includes provisions related to women to determine their compatibility and differences with CEDAW.

Accordingly, this study aims to clarify and analyze the impact of the amendments made to the 2022 constitution related to the empowerment of women in lifting the reservation on CEDAW, as well as studying Jordanian legislations that include provisions related to women to determine their compatibility or incompatibility with CEDAW. Achieving the objectives of the study requires first addressing CEDAW in terms of identifying its provisions, Jordan's position on this agreement, and the reservations made by the Jordanian government on some of its provisions, and then studying Jordanian legislations related to women's empowerment in terms of its compatibility or incompatibility with CEDAW.

### 1. WHAT IS CEDAW?

CEDAW is the most important binding international convention concerned with guaranteeing women's rights and giving them a role in society equal to that of men, without any discrimination. This convention was issued by the General Assembly of the United Nations and adopted in its resolution No. (34/180) dated December 18, 1979 and entered into force on September 3, 1981.<sup>8</sup>

This convention is based on Article (1) of the UN Charter, which emphasized the promotion and encouragement of respect for human rights for all without any discrimination based on gender, language or religion, and without any discrimination between men and women. It was also based on the Universal Declaration of Human Rights of 1948 (UDHR1, 984), where this Declaration affirmed that all people are born free and equal in rights and human dignity, and that every human being has the right to enjoy these rights without any discrimination, including discrimination on the basis of gender. The (UDHR1, 984) considered that discrimination constitutes a violation of the principle of equal rights and an obstacle to women's participation and giving them a prominent role in society, which negatively affects the well-being of the family and the development of society. CEDAW was also based on the two International Covenants on Human Rights of 1966, which obligate states parties to ensure equality between women and men in the enjoyment of all civil, political, social, economic and cultural rights.<sup>9</sup>

CEDAW includes detailed provisions and an integrated package of rights that women should enjoy on an equal basis with men in all fields without any discrimination. On the other hand, it calls for the development of a binding legal framework for equality between men and women and the prevention of discrimination between them, whereby states parties are required to enact national legislation that embodies the principle of equality and the prohibition of discrimination between men and women in their constitutions. It also obligates states parties to ensure the effective implementation of such legislation by providing appropriate means.<sup>10</sup>

CEDAW also obligates state parties to emphasize equal responsibility for men and women within the family. At the same time, it urges them to modify social and cultural patterns that include discrimination between men and women, and to transcend customs that give men superiority over women. This convention also includes the necessary principles and measures that states parties must

<sup>8</sup> OHCHR. 1979. The Convention on the Elimination of All Forms of Discrimination Against Women. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>9</sup> The Convention on the Elimination of All Forms of Discrimination Against Women, Preamble.

<sup>10</sup> Ibid, Article 2

observe to empower women and guarantee their equal rights with men within a binding legal framework.<sup>11</sup>

## 2. JORDAN'S POSITION ON CEDAW.

The Jordanian government signed CEDAW in 1982, ratified it on July 1, 1992, and was published in the Official Gazette in 2007 in issue (4839).<sup>12</sup> However, this convention was not introduced by the government to Parliament for approval in accordance with Article (33/2) of the Constitution, which states that "Treaties and agreements that entail burdening the state treasury with some expenses or related to the public or private rights of Jordanians shall not be valid unless approved by Parliament..." Therefore, it cannot be considered part of the Jordanian legal system because it did not go through the constitutional stages specified for the enforcement of international agreements related to rights and freedoms.

## 3. JORDAN'S RESERVATIONS ON CEDAW.

Although the Jordanian government ratified CEDAW and was committed to implementing its provisions, it formulated a reservation on some of its provisions for private considerations related to the state's religious and national identity. It has made reservations on paragraph (2) of Article (9) of the Convention, Paragraph (4) of Article (15), and Paragraphs (1/c, d, g) of Article (16).<sup>13</sup>

Jordan's reservation on some provisions of CEDAW means that it officially submitted a written statement in which it declared its non-compliance with the application of these texts, which it reserves on the grounds that they conflict with the sovereignty of the state, its legal system, its higher interests, or its religious values. Thus, excluding or modifying the legal effects of these texts that have been reserved.<sup>14</sup>

It is worth noting that with reservations on some provisions of CEDAW, Jordan would have exercised one of its rights granted to it under the 1969 Vienna Convention on International Treaties, as the system of reservations to some provisions of international conventions is one of the topics regulated by this convention as a right that states can exercise when signing, ratifying or approving an international treaty, unless the treaty itself prohibits making any reservations to its provisions or prohibits reservations to some provisions specified therein, because the reservation is incompatible with the content or purpose of the treaty.<sup>15</sup>

<sup>11</sup> Ibid, Article 12

<sup>12</sup> Bydoon, M. (2011). Reservations on the "Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)" Based on Islam and its Practical Application in Jordan: Legal Perspectives, Arab Law Quarterly, 25(1), 51-69. doi: <https://doi.org/10.1163/157302511X540817>

<sup>13</sup> Substantive Equality and Non Discrimination in Jordan, Shadow Report Submitted to CEDAW Committee at the 51st Session February , Page 3 [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/JOR/INT\\_CEDAW\\_NGO\\_JOR\\_51\\_9260\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/JOR/INT_CEDAW_NGO_JOR_51_9260_E.pdf)

<sup>14</sup> Vienna Convention on the Law of Treaties Done at Vienna on 23 May 1969, Article( 2/d) defined reservation saying that: "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

<sup>15</sup> Ibid, Article 19 state that "A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless: (a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not failing under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.



*As for the articles to which Jordan has placed reservations, it has placed reservations on Paragraph (2) of Article (9), which states that “States Parties shall grant women equal rights with men with regard to the nationality of their children.”*

*As for the articles that Jordan has reserved, it has reserved to Paragraph (2) of Article (9), which stipulates that “States Parties shall grant women equal rights with men with respect to the nationality of their children”. Jordan also maintains reservations on Paragraphs (1/c, d, and g) of Article 16, which obliges states parties to eliminate discrimination against women in all matters related to marriage and family relations, as the text of these paragraphs is as follows:*

*1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (c) The same rights and responsibilities during marriage and at its dissolution; (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.*

*Jordan also reserves the provisions of Paragraph (4) of Article (15), which gives women the same rights granted to men in the field of movement and choice of place of residence. However, on May 14, 2009, the Jordanian government lifted the reservation on the provisions of this paragraph, while maintaining other reservations related to nationality, marriage and family relations. Following the lifting of the reservation on Article (15) of the Convention, the Jordanian Fatwa Council, in its session held on July 23, 2009, discussed what was stated in Article (15) and Article (16) of CEDAW, which calls for absolute equality between men and women. This session resulted in the issuance of Fatwa No. (132/10/2009), which prohibited the adoption of Article (15) and Article (16) of CEDAW on the grounds of its conflict with Islamic Sharia.*

*Thus, Jordan has agreed to all the provisions of CEDAW and committed itself to all the obligations contained in Article (2) of this Convention, with the exception of the above texts that it has reserved. Whereas Article 2 of the Convention obligates states parties to denounce and combat, by all available means, all forms of discrimination against women, to include the principle of equality between men and women in their national constitutions and other legislation, to impose legal protection of women’s rights, and to ensure the effective application of the principle of equality with real man.*

#### **4. EMPOWERING WOMEN IN JORDANIAN LEGISLATIONS AND THEIR COMATIBILITY WITH CEDAW.**

*CEDAW included multiple provisions obligating states parties to take the necessary legislative measures to prevent discrimination against women and grant them equal rights with men, as paragraph (a) of Article (2) obligated states parties to embody the principle of equality between men and women in their constitutions and legislation and to ensure the practical implementation of this principle through laws and other means. Paragraph (c) of the same article also included the necessity of establishing legal protection for women’s rights on an equal basis with men. As Jordan is a party to this convention, it has developed and amended its legislation with the aim of keeping pace with CEDAW and providing greater protection for women’s rights and integrating them in the social, political and economic fields. This section deals with the provisions of the Jordanian constitution and Jordanian laws that aim to protect women’s rights and empower them in society.*

##### **4.1. EMPOWERING WOMEN IN JORDANIAN CONSTITUTION.<sup>16</sup>**

*The Jordanian constitution, since its promulgation in 1952 until 2011, did not include an explicit text recognizing the rights of women on the basis of their being female, but rather gave them all the rights as a Jordanian citizen. However, under the constitutional amendments of 2011, the constitution*

<sup>16</sup> The Jordanian Constitution and its amendments, issued in the Official Gazette No. 1093 dated 01/08/1952 on page 3.



explicitly recognized women's rights based on their motherhood, as paragraph (5) was added to Article (6) of the constitution, which reads: "The law protects motherhood, childhood and old age, takes care of youth and people with disabilities, and protects them from abuse and exploitation."

After that, amendments were made to the Jordanian constitution in 2022, according to which paragraph (6) was added to Article (6), which stipulates empowering women and enhancing their effective role in building society. In addition, the phrase (and Jordanian women) was added next to the word (Jordanians) to the title of the second chapter of it to read (Rights and Duties of Jordanians Men and Women). This added paragraph included obligating the state authorities to perform two main duties towards women, the first of which is empowering and supporting women to play an active role in building society to the extent that guarantees them equal opportunities with men, while the second duty is to protect women from all forms of violence and discrimination. Empowering women in accordance with the added constitutional text means their full and effective participation and integration in all aspects of economic, social, political and cultural life on the basis of justice and equal opportunities with men, and considering them an important element in sustainable human development as a producer and beneficiary, thus removing all obstacles that stand in the way of achieving that goal.

The Jordanian constitution affirmed that equal opportunities for men and women must be based on justice and equity, by granting women the full rights stipulated for them in the constitution, removing injustice from them and making them equal to men if their qualifications, competence and experiences are similar. The Jordanian constitution has adopted experience, qualifications and competence as a criterion for equal opportunities and differentiation between men and women in the economic, social and cultural fields, so that they have the same rights and duties as men if they are equal in experience and qualifications.

#### **4.2. EMPOWERING WOMEN IN THE HOUSE OF REPRESENTATIVES ELECTION LAW.<sup>17</sup>**

The House of Representatives Election Law No. (4) of 2022 was issued following the 2022 constitutional amendments, in succession to Election Law No. (6) of 2016, which allotted women (15) seats in the House of Representatives on a quota system, with one seat for each of the twelve governorates, in addition to the Bedouin districts. North, Center, and South, such that these seats are filled by women who have not been fortunate enough to win a seat based on the highest votes in her constituency. The rationale for Parliamentary Elections Law No. (4) of 2022 states that it aims to promote effective participation in parliamentary elections by all segments of society, especially women. To achieve this goal, the law included new provisions that enhance the role of women and their political empowerment, as one seat was allocated to women in each local electoral district, with a total of (18) seats out of (138), where Jordan was divided into (18) local electoral districts in addition to one general electoral district covering all parts of Jordan, and allocated to the general electoral district (41) seats to be filled from winners from party lists, where nominations for these seats are through closed party lists, provided that at least one woman must be among the first three candidates on each list, and there must be a woman among the next three candidates.

#### **4.3. EMPOWERING WOMEN IN POLITICAL PARTIES LAW.**

Parties represent the actual environment for the exercise of political life in the state, as they are the window through which women can enter political life and assume leadership positions in the state. Accordingly, the Jordanian Political Parties Law No. (1) of 2022,<sup>18</sup> which was issued later on the constitutional amendments of 2022, included in its justifications that it aims to strengthen the political role of women in party and public life. It clarifies the role of women in party life from the moment the party was founded, as it stipulated that the proportion of women when establishing the

<sup>17</sup> Political Parties Law - No. (1) of 2022, issued in the Official Gazette No. 5784 dated 04/14/2022 on page 2930.

<sup>18</sup> Political Parties Law - No. (1) of 2022 Issued in the Official Gazette No. 5784 dated 04/14/2022 on page 2930.



party should not be less than (20%) of the number of founders. The law also includes provisions regarding the obligation to support women who join the party and enable them to benefit from the party's available resources in a fair and equal manner; especially during election campaigns. Thus, this law has obligated parties to activate the participation of women in party activity, and paved the way for women to reach leadership positions in the party, which qualifies them to actively participate in political life, not only as a member of the party, but also as an active leading element.

#### **4.4. EMPOWERING WOMEN IN LOCAL ADMINISTRATION LAW.<sup>19</sup>**

In the field of women's social empowerment and their participation in managing the affairs of the society in which they live, the Local Administration Law No. (22) of 2021 allocates seats for women in municipal and provincial councils on the quota system, where a percentage of (25%) of the number of elected members of the council was allocated to women in the provincial council, to be occupied by the women who obtained the highest votes in relation to the number of voters within their electoral district, and those who did not win the overall competition according to the number of votes. In the municipal councils as well, the same percentage was allocated to them. Whereas, in the event that the required number of women did not run for office or the number that covered the percentage (25%) was not available, the Minister of Local Administration appoints the necessary number of women to cover the required percentage from among the female voters registered in the voters' lists. It is worth noting that this percentage (25%) represents the minimum for women's participation in provincial and municipal councils. This percentage may increase if one or more women win the highest total votes in the electoral district that qualifies them for membership, because the quota vacancies are filled by women who were not win the seat based on the number of total votes.

#### **4.5. EMPOWERING WOMEN IN OTHER LEGISLATION.**

In the field of women's economic empowerment and protection of their right to work and during work, Labor Law No. (8) of 1996 included provisions relating to women and the protection of their labor rights, where Article (27) prevents the employer from terminating the service of a pregnant working woman or giving her a notice to terminate her service starting from the sixth month of her pregnancy or during maternity leave. It also granted her the right to take maternity leave with full wages before and after delivery for a period of (10) weeks, provided that the period after delivery shall not be less than (6) weeks. On the other hand, the Social Security Law of 2014 stipulated a wage for the mother during the maternity leave period equivalent to her wage according to the last wage before the start of the maternity leave. In addition, the 2014 Judicial Independence Law allowed Jordanian women to take up the position of the judiciary, as the conditions for appointing a judge are general to include men and women without any discrimination. As for the civil service Bylaw for 2020, it equals between men and women in assuming a public position, where Article 2 of it defines the employee as "the person appointed by a decision of the competent authority in a job listed in the job formations table." Article (4) also stipulates the basic principles and values on which the civil service is based, which are the rule of law, justice, equality and equal opportunities.

Thus, it can be said that Jordanian legislations include many provisions aimed at empowering women politically, economically and socially in line with what is stated in the constitutional text added to paragraph (6) of Article (6) and also in line with CEDAW, where these laws stipulated equality between men and women on the basis of equal opportunities without any discrimination, but rather gives women a privilege over men by providing a quota system for women that allocates seats for women in the parliament, provincial councils, and municipalities. It is noteworthy that paragraph (6) added to Article (6) of the Constitution has become the basis and reference for laws that grant a quota to women, since before adding this text, doubts arose about the constitutionality of allocating seats for women in the House of Representatives, municipal and provincial councils, on the grounds

<sup>19</sup> Local Administration Law - No. (22) of 2021, issued in the Official Gazette No. 5746 dated 09/23/2021 on page 4114



that it contradicts paragraph (1) of Article (6) of the constitution, which affirms the equality of Jordanians before the law.<sup>20</sup>

## 5. DIFFERENCES BETWEEN JORDANIAN LEGISLATIONS AND CEDAW.

The reservations made by Jordan to CEDAW in relation to personal status, family and nationality issues highlighted the contradiction between Jordanian legislation and this convention in regulating these issues. Whereas CEDAW stipulates that women's rights must be guaranteed on the basis of absolute equality with men in all areas without any discrimination and regardless of their marital status. It also emphasizes the equality of responsibility between women and men within the framework of family life, without taking into account any other considerations, whether religious or customary.<sup>21</sup> However, the Jordanian constitution, then the Personal Status Law and the Nationality Law, regulated matters relating to personal status and nationality in line with the interest of the state and religious affiliation, and in contravention of CEDAW.<sup>22</sup> Accordingly, this section covers the difference between CEDAW and this legislation.

### 5.1. DIFFERENCES BETWEEN THE JORDANIAN CONSTITUTION AND CEDAW.

The Jordanian Constitution, in its first chapter and in Articles 1-4, clarifies the features of the Jordanian state and defines its identity, which is inspired by its affiliation to the Arab and Islamic nations. Article (1) stipulates that the Hashemite Kingdom of Jordan is an independent, sovereign Arab state. While Article (2) came to enshrine what the majority of the Jordanian people believe, as 94% of them embrace the Islamic religion. Accordingly, it states that Islam is the religion of the state. In the context of family affairs, paragraph (4) of Article (6) came to draw a general framework for the family within the provisions of Islamic Sharia. It considered that religion, morals and patriotism are the pillars on which the family must be based, and laws must preserve its religious entity and values. In line with this text, Articles (103 and 106) of the Constitution stipulate the necessity of regulating personal status cases in accordance with the provisions of Islamic Sharia, and Sharia courts are only competent to consider and decide on these matters. According to these texts, it can be said that the Jordanian constitution has explicitly tended to consider Islamic Sharia the main reference in regulating family affairs and personal status matters, and that organizing them away from Islamic Sharia is a departure from the provisions of the constitution.

Islamic Sharia organizes women's rights and their role in society differently from what came of CEDAW. It gives women a role in society that is different from the roles of men, in a way that is consistent with their innate nature and biological structure without denying them their rights or treating them inferior to men. Rather, it gives them the same rights as men, such as the right to learn, own property, dispose of money, and work according to controls that are compatible with their nature. As for CEDAW, it gives women a role in society that is completely equal to that of men, where, it unified their roles and gave them absolute equality without considering any other considerations. Meanwhile, it considered that religious values, customs and traditions constitute a stumbling block in the way of absolute equality between men and women; therefore it obligated the states parties to eliminate prejudices, customs and all practices based on the superiority of men over women by modifying social and cultural patterns in the behavior of men and women.<sup>23</sup>

Reading the constitutional texts previously mentioned and linking them with the constitutional text added in 2022 to Paragraph (6) of Article (6) of the Constitution shows an apparent contradiction between these constitutional texts and the added constitutional text that calls for ensuring women's

<sup>20</sup> Article (6/1) of the Jordanian Constitution stipulates that: " 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".

<sup>21</sup> CEDAW, Article (1 &16)

<sup>22</sup> Rana Hussein, Jordan, NGO, Women's Rights in the Middle East and North Africa: Progress and Resistance (New York, NY: Freedom House, 2010)

<sup>23</sup> Bydoon, M. (2011). Ibid.





empowerment and protection from all forms of discrimination. To explain this apparent contradiction, it can be said that the constitutional text added in 2022 included general directives to empower women and give them a prominent role in society. Therefore, these added constitutional provisions are considered as general constitutional rules to be applied in the absence of private constitutional rules in this regard. While articles (6/4), (105) and (106) are considered private constitutional rules that exist to regulate personal and family status issues in accordance with the provisions of Islamic Sharia, Therefore, they have priority in application based on the rule that says that private legal rules are given priority in application over general legal rules.

## 5.2. DIFFERENCES BETWEEN THE JORDANIAN PERSONAL STATUS LAW AND CEDAW.<sup>24</sup>

The Jordanian Personal Status Law No. (15) of 2019 came to regulate everything related to the family and personal status such as marriage, divorce, inheritance and alimony in accordance with the provisions of Islamic Sharia and in application of the provisions of the Jordanian constitution in this field.

On the subject of marriage, the Personal Status Law defines marriage as: “A contract between a man and a woman that legally authorizes them to form a family and to have offspring.” The law allows the wife to stipulate in the marriage contract the conditions that she wants and in which she has a legitimate interest, provided that they do not affect the rights of others; She may stipulate that he does not marry another woman, or that he does not prevent her from working outside the home, or that he does not drive her out of her country. She may also stipulate that the divorce infallibility be in her own hands. If the husband does not fulfill these conditions, he may annul the contract while claiming all her marital rights. Otherwise the Personal Status Law obligates the wife to live with her husband in housing that matches his residence or place of work.<sup>25</sup>

On the other hand, the law placed restrictions on the marriage of a Muslim man and a Muslim woman. Article (28) of the Law prohibits the marriage of a Muslim man to a non-Muslim or non-Christian woman, as well as the marriage of a Muslim woman to a non-Muslim. It also prohibited the marriage of a woman to a man who has apostatized from Islam or the marriage of a man to a woman who has apostatized from Islam.

By comparing these provisions with CEDAW, we find that it contradicts what is stipulated in Article (16) of the Convention, which obligates the state parties to take all necessary measures to eliminate discrimination against women in all matters related to marriage and family relations, and obliges them to guarantee women the same rights granted to a man in the marriage contract and in the freedom to choose a spouse.

In the field of alimony, the law has made it obligatory that the wife’s maintenance be borne by her husband, even if she is rich; Article (59) of the law states that “the maintenance of every person is from his money, except for the wife, who spends her on her husband, even if she is rich.” And he indicated that this alimony includes the wife’s food, clothing and housing, and the law also obligates the husband to provide a maid for his wife if such servants have servants. Thus, we find that the Personal Status Law has preceded CEDAW in granting women rights not provided for in the Convention.

In the field of inheritance, the law applied the provisions of Islamic Sharia in this field, giving the female inheritance, and in certain cases, half of what it gave to the male, contrary to what CEDAW required, which stipulated absolute equality without any discrimination.

<sup>24</sup> Personal Status Law No. (15) of 2019, issued in the Official Gazette No. 5578 dated 06/02/2019 on page 3181.

<sup>25</sup> Ibid, Articles( 5 ,37).



### 5.3. DIFFERENCES BETWEEN THE JORDANIAN NATIONALITY LAW AND CEDAW.<sup>26</sup>

Article (5) of the Jordanian Constitution referred the issue of granting citizenship and everything related to it to a law issued by Parliament. Accordingly, the Nationality Law of 1954 was promulgated, which specified the cases in which Jordanian citizenship is granted, as Article (3) of this law stipulates granting Jordanian citizenship to everyone born to a Jordanian father, as well as to anyone who was born in Jordan to a Jordanian mother, but his father is unknown, or stateless, or his affiliation to his father has not been legally established. Article (9) also considers that the children of a Jordanian father are Jordanians wherever they are born.

Through these texts, we find that the Jordanian Nationality Law distinguished between men and women when granting Jordanian citizenship to children, as the children of a Jordanian man were granted Jordanian citizenship even if their mother did not have Jordanian citizenship, while Jordanian nationality is prohibited from children of Jordanian women married to non-Jordanians, except in exclusively special cases, such as if the father is of unknown nationality, does not hold a nationality, or the lineage of the son to his father has not been proven.

Accordingly, these provisions contained in the Nationality Law contradict the text of Article (9/2) of the CEDAW Convention, which Jordan has reservations about, and which obliges state parties to grant women an equal right with men to grant citizenship to their children.

Referring to Article (6/6) of the Jordanian Constitution added under the constitutional amendments of 2022 and its impact on the obligation to grant Jordanian citizenship to children of Jordanian women, based on the fact that this added text prohibited discrimination against women in all its forms. It can be said in this regard that the Jordanian Constitution, in Article (5), has referred the issue of granting citizenship and everything related to it to the Nationality Law. This text includes general provisions without placing any restrictions on the legislative authority in this field. Nor did it include any general or specific directions for the laws regulating this subject.

Furthermore, the constitutional legislator, under the constitutional amendments of 2022, did not expressly express a tendency towards this direction, with evidence that it did not amend the text of paragraph (1) of Article (6) related to equality before the law, which states: "Jordanians are equal before the law, and there is no discrimination between them in rights and duties, even if they differ in race, language or religion." If the constitutional legislator wanted to grant Jordanian citizenship to children of Jordanian women, it would amend the text of this paragraph by adding the word (gender) to the text of the paragraph to read: Jordanians are equal before the law and there is no discrimination between them in rights and duties, even if they differ in race, language, gender or religion." or to amend the text of Article (5) by adding a phrase obligating granting Jordanian citizenship to children of Jordanian women. Consequently, the constitutional text added in Article (6) does not obligate the legal legislator to amend the Nationality Law to grant Jordanian citizenship to the children of Jordanian women married to non-Jordanians. On the other hand, any amendment to the Nationality Law to grant Jordanian citizenship to children of Jordanian women does not conflict with the provisions of the Constitution. The constitution has entrusted this issue to the Nationality Law to regulate it in line with the interest of the state and the preservation of national identity.

### CONCLUSION.

This study dealt with the empowerment of women and the protection of their rights in Jordanian legislation in light of the amendments made to the Jordanian constitution in 2022, which, according to its requirements, aim to empower women and enhance their role in the political, economic and social aspects of life. It also dealt with the impact of these amendments on personal and family status issues, and their impact on granting Jordanian citizenship to children of Jordanian women married to non-Jordanians. The study came to a set of conclusions:

<sup>26</sup> The Jordanian Nationality Law and its amendments, issued in the Official Gazette No. 1171 dated 16/02/1954 on page 105



1. Jordanian legislation has included many provisions that are consistent with the CEDAW Convention, which aims to empower women politically, economically and socially, while it regulates the issue of nationality, personal status issues and the family in line with the interests of the state and its religious affiliation, and in contravention of CEDAW.

2. The 2022 constitutional amendments related to the empowerment of women came in line with the position of the international community towards empowering women in the political, social and economic fields, but they do not affect personal status issues and family affairs organized in accordance with the provisions of Islamic Sharia. This is because these issues are regulated by special texts in the constitution that have entrusted the matter of looking into them to the Sharia courts, which obliged them to follow the true Sharia when ruling on these issues.

3. It cannot be said that these amendments pave the way for the lifting of reservations to CEDAW, because the articles that were reserved in the convention contradict not only Islamic Sharia, but also conflict with the provisions of the Jordanian constitution, which occupies a higher position than international conventions.

4. CEDAW does not form part of the Jordanian legal system, because it did not pass the necessary constitutional stages to enforce international conventions, as it was not submitted to the National Assembly for ratification, but was signed and ratified only by the executive authority, and then published in the Official Gazette. Therefore, Jordanian courts cannot base their judgments on this Convention.

5. The 2022 constitutional amendments do not have any effect on the Jordanian identity, as they do not pave the way for granting Jordanian nationality to the children of Jordanian women married to non-Jordanians, because the Jordanian constitution, before these amendments, did not prevent this matter, but entrusted the regulation of everything related to nationality to a law issued by the legislative authority, and therefore The question of whether or not citizenship is granted is a matter of law, not of the constitution.

### RECOMMENDATIONS

The study recommends the following:

1. The need to reformulate the constitutional text added to Paragraph (6) of Article (6) in 2022 to be more clear in defining the goal of the constitutional legislator regarding the regulation of personal status and family matters, so that it does not raise suspicion of its conflict with other constitutional texts.

2. The necessity of explicitly stipulating in the Constitution that children of Jordanian women must be granted Jordanian citizenship as one of the rights of Jordanian women, and then lifting the reservation on the text related to this matter in CEDAW.

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