



## Jordanian Women Married to Non-Jordanians Have the Right to Pass On Their Nationality to Their Families

### Identifying the Problem

Jordanian women married to non-Jordanians face multiple forms of exclusion and discrimination. Simply put, a Jordanian woman cannot pass her nationality to her non-Jordanian husband or their children, damaging the lives of these families. Nationality can only be inherited through a paternal relationship, as the children of Jordanian men married to non-Jordanians automatically inherit Jordanian nationality, even if they are born outside of Jordan, and the spouses of Jordanian men are applicable for obtaining the nationality after a certain number of years. The justification for this discrimination has routinely been lodged on political grounds with claims that giving women the right to pass on their nationality to their husbands and children will lead to an internal political crisis because of its potential to change the demographic composition of Jordan. However this argument does not change the issue from being one of human rights, and that the justification to this view cannot be dependent on gender discrimination.

Citizenship is an important way to link rights to individuals in society. However the families of Jordanian women married to non-Jordanians results in the social exclusion of all the family members, as when the husband is a foreigner and the wife is a national; the entire family is treated as foreign. There are both legal and cultural exclusions that Jordanian women suffer. A Jordanian woman's 'second class citizenship' is engendered through social and legal institutions of marriage, as marriage is where a woman is made inferior by the privileged citizenship of a man.

Additionally, Jordanian women married to non-Jordanians cope with a limited ability to obtain employment, reduced and expensive access to healthcare, lack of subsidized education and the continuous castigation by others. For these women, the denial of their nationality constitutes in itself a deprivation, whereas the exclusion of their children and foreign husbands is an active exclusion as it is based on the Jordanian Constitution and laws. The children of Jordanian women married to non-Jordanians suffer the most. Not only do they endure social exclusion, but their environment keeps enforcing the label of 'foreigner' upon them, making them feel rejected by their environment.

"Legal equality gives women a level playing field from which to make their own choices, build their capabilities and realize their hopes and dreams, positively affecting the development of society in general." Only when this discrimination is eliminated, by amending the constitution,<sup>1</sup> will equal rights be given to all Jordanian citizens, men and women, and "thereby ensuring the civil, political, economic, social, and cultural rights that nationality helps people access." For all these reasons, it is a matter of urgency that the Jordanian Government "eliminates all forms of gender discrimination so that both women and men may pass on their nationality to their children and their spouses on an equal basis free from discrimination."<sup>2</sup>

## Consequences of Being Unable to Acquire Nationality:<sup>3</sup>

### Children

- Statelessness.
- Fear of deportation of children and husband
- Additional vulnerability of girls to forced and early marriages.
- Lack of access to publicly-funded education for children.
- Feelings of (deprivation, social castigation, being inferior) in addition to the women's feelings of helplessness in regards to securing a better future for their children.<sup>4</sup>

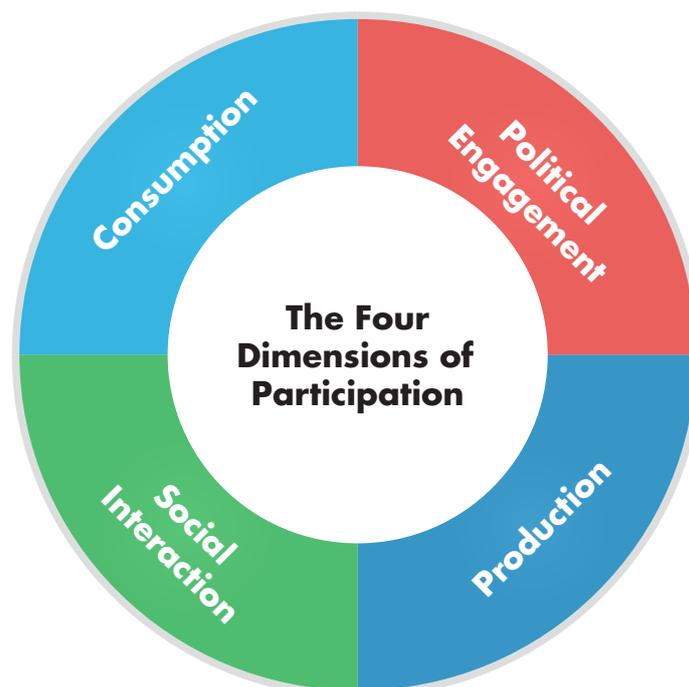
### Wife

- Difficulties for women to claim child custody/access on marriage breakup

### Family

- Lack of access to publicly-funded medical services and national health insurance
- Lack of access to social benefits
- Inability to register personal property
- Limited freedom of movement, including to travel abroad
- Limited access to jobs and economic opportunities
- Trauma and anxiety due to feelings of rejection from the society.

**“An individual is socially excluded if he or she does not participate in key activities of the society in which he or she lives.”<sup>5</sup>**



# The Position of International Law and the Right of Women to Pass on Their Nationality Their Family Members



Countries that have ratified international treaties and conventions are bound by a number of commitments and restrictions, including respecting human rights and freedoms, according to the international law. In addition, Jordan is a member of the United Nations,<sup>6</sup> meaning it is also committed to safeguarding the principles and objectives of the organization. The Universal Declaration of Human Rights emphasizes on the prohibition of gender-based discrimination, as Article 15 of the Declaration stipulates that "every individual has the right to a nationality". Furthermore, the International Covenant on Civil and Political Rights<sup>7</sup> also aimed at safeguarding gender-equality when it comes to enjoying all civil and political rights as well as the right of every child to bear a nationality.

Jordan has also ratified the International Covenant on Economic, Social and Cultural Rights<sup>8</sup> without stating any reservations. The country has also become a member of the Convention on the Elimination of All Forms of Discrimination Against Women,<sup>9</sup> which reiterated the importance of integrating gender equality in the Constitution and all relevant national legislations. In addition, Jordan is also a signatory to the International Convention on the Rights of the Child.<sup>10</sup>

The Arab Charter on Human Rights, which was ratified by the Jordanian government and came into effect in 2008,<sup>11</sup> also calls for empowering children, enabling them to acquire their mothers' nationality and ensuring that the child's interest is paramount in all cases.

## Contradictions in Jordanian Legislation

In the first clause of Article 6, the Jordanian Constitution of 1952<sup>12</sup> stipulates that "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion." When addressing an international audience, Jordan's official interpretation of the word "Jordanians" was that it referred to all Jordanians, both male and female, without discrimination. However at the national level, the Nationality Law is discriminatory between Jordanian men and women as they are granted unequal rights. Therefore, the Constitution is criticized for not including "gender" to eliminate such discrimination.

Amendments to Article 6, Clause 4, which have been recently approved, stipulate the following: The family is the basis of society the core of which shall be religion, morals and patriotism; the law shall preserve its legitimate entity and strengthen its ties and values.<sup>13</sup> As a result, we have a constitutional article that safeguards the family which is perceived as the basic unit of the society, and is in line with the international conventions related to human rights.

The Jordanian National Charter stipulates that all Jordanians, both men and women, shall be treated equally before the law in terms of rights and duties. The initiative 'We are all Jordan,' launched in 2006, also reiterated "the Kingdom's commitment to the international conventions and treaties related to women's rights." However the Jordanian Nationality Law<sup>14</sup> deprives Jordanian women of their inalienable right to pass their citizenship to their children, born to non-Jordanian fathers, while Article 9 of this law stipulates that "children of a Jordanian man are Jordanians wherever they are born." The deprivation of Jordanian women of this right is in sharp contrast to all international conventions, ratified by Jordan through legal and constitutional channels.

# The Economic Hardships of Being Unable to Acquire Nationality

Economic rights of non-Jordanian children and spouses of Jordanian women are not safeguarded, as every individual who does not have a Jordanian National Number, as per the Civil Status Law, is treated as a foreigner. Children and spouses are also deprived from employment opportunities in the public sector,<sup>15</sup> while they are treated as foreigners in the private sector.<sup>16</sup>

The Residence and Foreigners' Affairs<sup>17</sup> Law is devoid of any stipulation that facilitates the residency of the spouse of a Jordanian woman in the country. According to the aforementioned law and the relevant regulations, these husbands are treated as foreigners who are required to meet all the necessary conditions to be able to renew their annual residency permits, in order for them to stay in Jordan and acquire a contract of employment within certain professions.

Official records of the Ministry of Interior revealed that the number of Jordanian women married to non-Jordanians reached 56,956 by the end of 2009. The total number of family members of these Jordanian women stood at 332,001<sup>18</sup> by the end of 2011, as per the findings of a study conducted by the Arab Women Organization in Jordan in 2010<sup>19</sup>.

Another study, conducted by the Information and Research Center – King Hussein Foundation in 2011, sought to assess the costs and benefits of granting a permanent residency to the families of Jordanian women married to non-Jordanians. The study concluded that the costs the government would bear (residency permit fees, work permits, subsidies to education in schools and universities and public health care) were slightly higher than 49 million JD. On the other hand, the direct benefits the government would receive stood at approximately 59 million JD. Based on these findings, the net direct benefits, resulting from granting a permanent residency, amounted to 10 million JD. These numbers clearly exclude indirect benefits that the analysis revealed, due to the families' contribution in the formation of capital investment, leading to an increase in the number of newly created jobs, which exceeded 27 thousand jobs in 2011.

According to a study, carried out by the Information and Research Center – King Hussein Foundation in 2011,<sup>20</sup> it was found that families of Jordanian women married to non-Jordanians faced economic challenges. These challenges are summarized as follows:

- The study revealed that 94.5 % of husbands affirmed they faced challenges in the labor market
- It revealed that 72 % of these families cannot access healthcare
- 50 % of these children are not accepted in public schools due to the lack of legislations that govern their enrollment
- 16.2 % of these families are seriously considering leaving Jordan because they are deprived of their economic rights

## Frequently Asked Questions:



### Does the Jordanian Constitution form a basis for gender-based discrimination?

Article 6; Clause 1 of the Jordanian Constitution stipulates that "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion." Therefore, all citizens should be treated equally. However, the Article did not include gender as another potential basis of prohibited discrimination. Consequently, we find that some Jordanian laws do carry gender-biased stipulations, such as the Nationality Law No. 6 of 1954.

### What is the Jordanian Government's stance on Article 6 of the Constitution?

When addressing the international audience, Jordan has declared that the word "Jordanians" refers to both genders without discrimination, meaning equality between males and females is safeguarded. This was mentioned in the periodical report submitted to the Committee for the Elimination of All Forms of Discrimination Against Women in 2010<sup>21</sup> as well as the report submitted to the Human Rights Committee in 2009.<sup>22</sup> At the domestic level, the National Charter stipulated that all Jordanians, irrespective of gender, shall be equal before the law in regards to duties and rights. The "We are all Jordan" initiative, launched in 2006, also reiterated the Kingdom's commitment to the international conventions and treaties related to women.

### How does the Nationality Law discriminate between Jordanian men and women?

According to Article 3; Clause 3 of the Nationality Law, a "Jordanian is any person whose father holds the Jordanian nationality." However, a Jordanian mother was not granted the same right. In addition, the law granted the Jordanian male the right to pass his citizenship to his non-Jordanian wife, while a Jordanian woman, married to a non Jordanian, was denied this right.

### Can a Jordanian woman married to a non-Jordanian pass her Jordanian citizenship to her children?

There exists only one situation whereby a Jordanian woman can pass her citizenship to her children. This happens when a child is born in the Hashemite Kingdom of Jordan to a Jordanian mother and a father whose nationality is unknown, or a stateless father, or a father whose paternity was not legally verified.

### Does granting Jordanian nationality to the children of a Jordanian mother and a Palestinian father affect the Palestinian cause?

The Palestinian refugee enjoys a special legal status that is different from any other refugee. This status cannot be ceded, even if they acquire another nationality. The United Nations Relief and Work Agency for Palestinian refugees, commonly known as UNRWA, is an international agency dedicated to serving refugees. It is tasked with providing humane services for refugees until a fair solution to their dilemma is reached. The Palestinian refugee, according to the definition of UNRWA, is every person "whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict" and sought refuge in 1948 in one of the countries where the agency operates. Refugees, who meet the criteria set by this definition, are qualified to benefit from the assistance of the agency along with their children and grandchildren, provided that they are registered with UNRWA and residents in locations where it operates.

Chapter 1: D of the Convention relating to the Status of Refugees of 1951 stipulates the following: "This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance." In other words, this means that this article is not applicable to Palestinian refugees, who fall under the jurisdiction of UNRWA, and they should not be subject to the ramifications of this convention. Furthermore, a Palestinian refugee's Right of Return is safeguarded in all human rights conventions. It is a right that shall not be

subject to restrictions, or hindrance, and has been reiterated in many of the resolutions of the United Nations, issued by the General Assembly and the Security Council. It also does not fall due to limitation, regardless of how long Palestinians were deprived of their Right of Return to their homes.

**As long as the Nationality Law allows naturalization for foreigners, why do children of Jordanian mothers not apply for Jordanian citizenship?**

Naturalized citizenship is subject to the decision of the state, whereby it decides to grant its citizenship to foreigners as it deems appropriate, provided they fulfill certain requirements and criteria. This is totally separate from a father or a mother's right to pass their citizenship to their children automatically without the interference of the state, which could grant or deprive individuals of the citizenship.

**Does Jordan have any commitments to amend the Nationality Law in order to allow women to pass their citizenship to their children when they are born to non-Jordanian fathers?**

Jordan ratified a number of international conventions that reiterate equality between men and women in terms of rights and duties, such as the two international covenants (the International Covenant on Civil and Political rights<sup>23</sup>, the International Covenant on Social and Economic Rights).<sup>24</sup> Also, Jordan ratified the Arab Charter on Human Rights,<sup>25</sup> which clearly stipulates that "The State Parties shall undertake, in accordance with their legislation, all appropriate measures to allow a child to acquire the nationality of his mother with regard to the interest of the child."

**What is the legal significance of the international conventions previously ratified by Jordan's Constitution?**

The Constitution does not address the moral value of the international conventions, ratified by Jordan. However, the Jordanian judiciary addressed the issue on numerous occasions. We can safely assume that the Jordanian judiciary gave the international conventions, ratified by Jordan through legal channels, a greater value than domestic legislations. This means that the

stipulations of the conventions were applied, even when they clashed with current domestic legislations.

**What Jordan's position on its reservations of Article 9, Paragraph 2 of CEDAW, which stipulates that "States Parties shall grant women equal rights with men with respect to the nationality of their children"?**

The Committee on the Elimination of All Forms of Discrimination Against Women<sup>26</sup> criticized these concerns,<sup>27</sup> as they are in sharp contrast to the ultimate objective of the convention and its core value, which lie in the elimination of all forms of discrimination against women.

**If the mission of the coalition is achieved, the children of Jordanian women married to Arabs will have two Arab nationalities. Does this clash with the 1954 Convention of the Arab League concerning the prohibition of dual Arab nationalities?<sup>28</sup>**

According to international law, an international convention is enforced after being ratified by a certain number of countries, determined by the convention itself. According to Article 11 of the 1954 Convention of the Arab League, it shall come into effect when three Arab countries ratify it. To this date, the convention has been ratified by two countries only and therefore does not hold any legal value.

**What are the challenges faced by the children of Jordanian mothers married to a non-Jordanians?**

According to international law, an international convention is enforced after being ratified by a certain number of countries, determined by the convention itself. According to Article 11 of the 1954 Convention of the Arab League, it shall come into effect when three Arab countries ratify it. To this date, the convention has been ratified by two countries only and therefore does not hold any legal value.



# Recommendations



## To the Parliament:

- Amend Article 6, Paragraph 1 of the Constitution, in order to clearly denounce and prohibit gender-based discrimination.
- Amend Article 6, Paragraph 4<sup>29</sup> of the Constitution to stipulate that the "individual" is the basis of society.
- Amend the Jordanian Nationality Law No. 6 of 1954, in order to eliminate all discriminatory articles that lead to inequality between Jordanian men and women. As a result of this proposed change, Jordanian men and women should both have the right to pass their citizenship to their children, irrespective of their spouse's nationality. This law will then be consistent and in line with the Constitution and international standards on this issue.
- Amend the Residence and Foreigners' Affairs Law No. 24 of 1973, in order to render the foreigner husband of a Jordanian woman the same status that the foreign wife of a Jordanian man enjoys.

## To the Executive Branch:

- Amend all regulations and instructions, issued under different laws related to foreigners, to ensure that the children of Jordanian women are treated as Jordanians and freed from any restrictions, or permissions to enjoy their rights, relating to education, healthcare, work, owning property as well as acquiring a driving license.
- Exempt children and spouses of Jordanian women from the Law of Residence and Foreigners' Affairs, according to Article 29(H).
- All relevant government entities should work on identifying and calculating the number of Jordanian women married to non-Jordanians and including it in a database, where it becomes possible to identify nationalities of spouses and update it on annual basis. This is currently a problem facing research centers and researchers, as it is difficult to find official records in this regard.



## References:

- 1- Equality Now. Campaign to End Sex Discrimination in Nationality and Citizenship Laws (2013).
- 2- Ibid.
- 3- Ibid.
- 4- Arab Women Organization of Jordan. The Economic, Social, Political and Psychological Effects borne by the Families of Jordanian Women Married to Non-Jordanians (2010).
- 5- Sen, A. (2000) Social Exclusion: Concept, Application, and Scrutiny. Social Development Papers, No. 1. Office of Environment and Social Development, Asian. Development Bank
- 6- See, for example, article 1 of the United Nations Charter.
- 7- The International Covenant on Civil and Political Rights was published on June 15, 2006 in Issue No. 4764 of the Official Gazette.
- 8- The International Covenant on Social, Economic and Cultural Rights was published on June 15, 2006 in Issue No. 4764 of the Official Gazette.
- 9- The Convention on the Elimination of all Forms of Discrimination Against Women was published on August 1, 2007 in Issue No. 4839 of the Official Gazette.
- 10- The Convention on the Rights of the Child was ratified according to Law No. 50 of 2006
- 11- The Arab Charter on Human Rights was published on September 16, 2004 in Issue No. 4575 of the Official Gazette.

- 12- It was published in Issue no. 1093 on January 8, 1952.
- 13- As per the amendment, published in Issue No. 5117 on October 1, 2011 of the Official Gazette.
- 14- Jordanian nationality Law No. 6 of 1954.
- 15- The Jordanian Civil Service Code No. 30 of 2007
- 16- Jordanian Labor Law No. 8 of 1996 and its amendments, published on page no. 1173 of Issue No. 4113 of the Official Gazette on April 16, 1996.
- 17- Jordanian Residence and Foreigners' Affairs Law No. 24 of 1973
- 18- This number was based on the number of families ( 65,596), multiplied by the average Jordanian family size (5,8) and deducting 1 person (the Jordanian woman in the family), which explains why the family size stands at (4,8).
- 19- Arab Women Organization in Jordan, "The Economic, Social, Political and Psychological Effects borne by Families of Jordanian Women Married to non-Jordanians", 2010.
- 20- Information and Research Center – King Hussein Foundation. Reversing Gender Bias Against Jordanian Women Married to Foreigners (2011).
- 21- Jordan's periodic report to the Committee on the Elimination of Discrimination against Women, CEDAW/C/JOR/5, 24 September 2010, Para 7.
- 22- Jordan's periodic report the Human Rights committee, CCPR/C/JOR/330, March 2009 para 8.
- 23- The International Covenant on Social, Economic and Cultural Rights was published on June 15, 2006 in Issue No. 4764 of the Official Gazette
- 24- The International Covenant on Social, Economic and Cultural Rights was published on June 15, 2006 in Issue No. 4764 of the Official Gazette
- 25- The Arab Charter on Human Rights was published on September 16, 2004 in Issue No. 4839 of the Official Gazette.
- 26- The Convention on the Elimination of All Forms of Discrimination Against Women was published on August 1, 2007 in Issue No. 4839 of the Official Gazette.
- 27- Paragraph 2 of Article 9 stipulates: States Parties shall grant women equal rights with men with respect to the nationality of their children. Paragraph 4 of Article 15 stipulates: States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile. Paragraph 1/C of Article 16 stipulates on ensuring equality between men and women in regards to "the same rights and responsibilities during marriage and at its dissolution". Paragraph 1/F of Article 16 also calls for granting men and women "the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount". Paragraph 1/g stipulates on granting men and women "the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation".
- 28- The Convention on Nationality, ratified by the Council of the Arab League, as per resolution No. 776 on April 5, 1954.
- 29- Paragraph 4 of Article 6 of the Jordanian Constitution stipulates that "The family is the basis of society the core of which shall be religion, morals and patriotism; the law shall preserve its legitimate entity and strengthen its ties and values



## About the Coalition "My Nationality is the Right of My Family"

### About Us

Our coalition is comprised of twelve civil society organizations and eighteen individuals. These members come from different backgrounds and possess different expertise in the social, legal, economic, and media fields. Members have come together and consolidated their efforts with the aim of granting Jordanian women married to non-Jordanians the right to pass their nationality to their spouses and children. To this end, the coalition advocates for a series of constitutional and legislative amendments that uphold and safeguard gender equality in Jordan. The coalition was launched on the 17th of February 2013 under the name "My Nationality is the Right of My Family".

### Mission

To advocate for constitutional and legislative amendments, affirming gender equality and enabling Jordanian women married to non-Jordanians to pass on their nationality to their spouses and children.

### Vision

To advocate for constitutional and legislative amendments, affirming gender equality and enabling Jordanian women married to non-Jordanians to pass on their nationality to their spouses and children.

### Prepared by

Members of the coalition "My Nationality is the Right of My Family" contributed to this policy paper, under the guidance of the Information and Research Center – King Hussein Foundation.

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