



Jordan

Gender Justice & The Law

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Jordan

Gender Justice

Assessment of laws affecting gender equality and protection against gender-based violence

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ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
ESCWA	Economic and Social Commission for West Asia
FGM/C	female genital mutilation / cutting
GBV	Gender-based violence
ILO	International Labour Organization
IOM	International Organization for Migration
NGO	Non-government organization
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
UNDP	United Nations Development Programme
UNESCWA	United Nations Economic and Social Commission for West Asia
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees (UN Refugee Agency)
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WHO	World Health Organization
Arabic terms	
fatwa	Ruling or pronouncement on a point of Islamic law
'idda	The period a woman must observe after the death of her spouse or after a divorce during which she may not remarry
khalwa	Social mingling of men and women who are unrelated
khul'a	Divorce process initiated by the wife requiring return of her mahr
mahr	Mandatory payment by the groom or his father to the bride which then becomes her property
talaq	Repudiation; divorce process whereby the husband repudiates his wife
'urf	Custom
wali	Guardian
wilaya	Guardianship
zina	Unlawful sex, including adultery and sex between two persons neither of whom are married

INTRODUCTION

Scope

UNDP, in partnership with UN Women, UNFPA, and ESCWA, has conducted a study on Gender Justice and the Law to provide a comprehensive assessment of laws and policies affecting gender equality and protection against gender-based violence in the Arab states region.

The study is composed of an introductory piece that describes the background, rationale, analytical framework and methodology, and a total of 18 country profiles. Each country profile maps the country's key legislative and policy developments regarding gender justice.

This country profile presents the findings of the study relating to Jordan. It provides an analysis of whether the country's laws and policies promote or impede equality between women and men before the law, and whether they provide protection against gender-based violence.

This country profile includes analysis of the following areas of the law:

- Constitutional guarantees of gender equality and constitutional protections against gender-based violence
- Status of penal codes and whether the country has domestic violence laws that address gender-based violence
- Status of personal status codes and how they impact gender equality
- Status of nationality laws and whether they ensure that women and men enjoy equal rights in relation to citizenship
- Status of labour laws and whether they provide protection from discrimination and gender-based violence in the workplace

Methodology and acknowledgements

The study was conducted in two phases:

1. A literature review was conducted between January 2016 and June 2017 of the various laws, regulations, policies, and law enforcement practices related to gender justice in each of the 18 countries, which then formed the basis of draft country profiles.
2. Realizing the limitations of desk-based literature reviews, country validation processes for each of the draft country profiles were led by UN Country Teams and national consultants. Country validation processes took place between September 2017 and August 2018 to ensure the accuracy of each country profile. These sought the views of government partners and other key national stakeholders.

Ms. Nour Emam, UNDP Legal Consultant, was the lead consultant who reviewed this country profile. The country profile was informed by a consultation on Gender Justice in Jordan organized by UNDP under the auspices of the Ministry of Justice on 30–31 August 2016. Drafts of this country profile were provided to the Ministry of Jordan, the National Centre for Human Rights and the Association of the Jordanian Women's Solidarity Institute (*Tadamoun*), whose inputs are gratefully acknowledged. UNDP also shared the country profile with leading civil society actors and the UN Country Team in Jordan for their inputs. The feedback provided by the following is gratefully acknowledged: Dr Maria Arlogrino, Arab Renaissance for Democracy and Development; Bushra Abu Shahout, UN Women Country Office; and Samah Marmash, Executive Director, Arab Women's Legal Network.

The literature reviews that formed the basis of the country assessment were authored by consultants John Godwin and Nadya Khalife. They also edited the final drafts for publication after feedback from national counterparts. Their insights and hard work are recognized with gratitude. Nadya Khalife and Amr Khairy translated the outputs of the study into Arabic and English. Gratitude is also extended to John Tessitore for assistance with copyediting in English.



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Jordan ratified CEDAW in 1992, but maintains reservations to Article 9(2) and Article 16(1)(c), (d), and (g). Jordan lifted its reservation to Article 15(4) in 2009. The publication of CEDAW in the official Gazette in 2007 had the effect of giving it the force of law.

Constitution

Article 6 of the 1952 Constitution guarantees equality before the law. The Constitution does not include an article addressing gender discrimination or prohibiting discrimination against women.

NATIONALITY LAW

NATIONALITY

Under the Nationality Law No. 6 of 1954, Jordanian women married to non-Jordanian men cannot pass their citizenship to their children or husband in the same way as men. In 2014, the government issued a statement promising to give sons and daughters of Jordanian women "Mazaya" (privileges).

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Protection from Domestic Violence, No. 15 of 2017. The law could be further strengthened by clarifying the definition of domestic violence crimes.

Abortion for rape survivors

Abortion is prohibited by Articles 321–325 of the Penal Code, including for women who have been raped.

Female Genital Mutilation / Cutting (FGM/C)

There are no documented cases. There is no legal prohibition.

Sexual orientation

There is no specific prohibition of homosexual conduct in the Penal Code. There is lack of information about the application of criminal laws to penalize consensual same-sex conduct or expression of sexual orientation.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Sexual harassment can be punished as the offence of unwanted sexual contact under Articles 305 and 306 of the Penal Code. However, the scope of the law is unclear and on-line harassment is not addressed. Penalties are increased if the perpetrator is an employer or supervisor.

Human trafficking

The Law on Protection Against Trafficking of Humans No. 9 of 2009 provides comprehensive measures to address human trafficking.

Rape (other than of a spouse)

Article 292 of the Penal Code Law No. 16 of 1960 criminalizes rape. Any person who has sexual intercourse with a female, other than his wife, without her consent, whether by coercion or threat or deception, shall be sentenced to at least 15 years' imprisonment.

Honour crimes: Mitigation of penalty

Article 98 of the Penal Code was amended in 2017 to prevent reduction of penalties for 'honour' crimes. However, Article 340 has not yet been removed from the Penal Code. Article 340 allows for reduced penalties if a spouse is murdered when caught in the act of adultery.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 306–317 of the Penal Code.

Exoneration by marriage

Article 308 of the Penal Code exonerated a man in cases of rape or sexual assault if he married his victim. Article 308 was removed from the Penal Code in 2017.

Honour crimes: Protective detention

Women and girls whose lives are at risk for reasons related to family honour may be forcibly detained in detention centres for their own protection under the Crime Prevention Law No. 7 of 1954. By-laws have been issued for a new system that will require women and girls who are at risk to be housed in shelters.

Adultery

Adultery is an offence under Articles 282–284 of the Penal Code.

PERSONAL STATUS LAWS

Minimum age of marriage

The legal age of marriage is 18 years. However, a judge has discretion to consent to the marriage of a minor who is 15 years or older.

Guardianship of children

Fathers are the sole guardians of children.

Male guardianship over women

A male guardian is required for an unmarried woman under the age of 40 (whether divorced, widowed, or single). The guardian's consent to marriage is required to a first marriage. There are weak codified protections for women under guardianship. A judge can overrule a guardian's objection to a marriage.

Custody of children

The mother is entitled to custody until the child is 15. A mother loses custody if she remarries someone who is not a close relative of her former husband.

Marriage and divorce

Women do not enjoy equal rights in marriage and divorce. The wife owes a legal duty of obedience to her husband. Men have legal obligations to provide materially for their wives and children. The law allows the woman to add conditions to her marriage contract. Men can divorce unilaterally by talaq.

Inheritance

Sharia rules of inheritance apply. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is permitted by the Personal Status Law.

LABOUR LAWS

Right to equal pay for the same work as men

The Constitution provides that "every worker shall receive wages commensurate with the quantity and quality of his work." However, there is no right to equal pay for women and men under the Labour Code No. 8 of 1996.

Domestic workers

Migrant domestic workers have some rights as a result of regulations issued under the Labour Code in 2008. These regulate working hours and salary payments.

Dismissal for pregnancy

Employers are prohibited from dismissing women because of pregnancy by Article 27 of the Labour Code.

Paid maternity leave

Women have the right to paid maternity leave (90 days of leave for public sector workers; 70 days for private sector workers). This is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

Regulations issued under the Labour Code impose legal restrictions on women's employment in some occupations considered arduous or where they may be subject to health and/or safety risks. Women are also prohibited from night work except in roles specified by the Minister of Labour.

OVERVIEW

Legal framework

International law

The Hashemite Kingdom of Jordan has ratified most of the key international human rights treaties, which became part of Jordanian legislation when they were included in the official Gazette in 2006 and 2007. The publication of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the official Gazette on 1 August 2007 had the effect of giving it the force of law.

Jordan ratified CEDAW in 1992, subject to reservations to Article 9(2) (equal rights with regard to nationality of children) and Article 16(1)(c) (equal rights and responsibilities during marriage and at its dissolution), (d) (equal rights and responsibilities as parents), and (g) (equal personal rights, including the right to choose a family name, a profession, and an occupation).

Jordan lifted its reservation to CEDAW Article 15(4) in 2009 (equal rights relating to movement of persons and the freedom to choose residence and domicile). Jordan maintains its reservations to Article 9(2) and Article 16(1)(c), (d) and (g).

National laws

The main laws of Jordan relevant to gender justice are:

Constitution of Jordan of 1952
Crime Prevention Law, No. 7 of 1954
Nationality Law, No. 6 of 1954
Penal Code, No. 16 of 1960 with amendments
Labour Code, No. 9 of 1996
Law on Protection from Domestic Violence, No. 6 of 2008
Human Trafficking Law, No. 9 of 2009
Temporary Personal Status Law, No. 36 of 2010
Law on Electronic Crimes, No. 27 of 2015
Shelters for Vulnerable Persons System, No. 171 of 2016
Law on Protection from Domestic Violence, No. 15 of 2017
Law on the Rights of People with Disabilities, No. 20 of 2017
Regulation of Flexible Work System, Regulation No. 22 of 2017

Gender equality provisions of the Constitution and National Charter

Article 6 of the Constitution of the Hashemite Kingdom of Jordan provides:

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.

Defending the homeland, its land and people's unity, and maintaining social peace are sacred duties of every Jordanian.

The government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquillity and equal opportunities to all Jordanians.

Family is the foundation of the society. It is founded on religion, morals, and patriotism. The law preserves its legal entity, strengthens its ties and values.

The law protects motherhood, childhood, and the elderly, cares for youth and the disabled, and protects them from offence and exploitation.

Reference in the Constitution to the rights of Jordanians includes both men and women. However, the Constitution does not specifically prohibit gender discrimination. National reports issued by Jordan arising from international human rights conventions recognize that the Constitution does not distinguish between women and men.

Equality of all citizens was affirmed by the 1991 National Charter in the following Chapters:

Chap. 1(8). Jordanian men and women are equal under the law. There shall be no distinction between them in rights and obligations regardless of difference in race, language, or religion.

Chap. 5(6). Women are men's partners and equals in contributing to the growth and development of Jordanian society. This requires an affirmation of women's constitutional and legal rights to equality, guidance, training, and employment as a means of enabling them to play their proper role in the growth and development of society.

Policy framework

Three national institutions have a mandate that includes the protection of women and girls: the Jordanian National Commission for Women (JNCW), the National Council for Family Affairs (NCFA), and the National Centre for Human Rights.

There are special departments on domestic violence in the Ministry of Health, Ministry of Education, Ministry of Justice, and Ministry of Social Development. The Ministerial Committee for the Empowerment of Women adopts executive functions for policies related to women.

King Abdullah II of Jordan launched seven discussion papers on political reforms and democratic transformations in the period 2012–2017. These addressed the importance of women's roles in political, economic, social, and cultural fields and emphasized gender equality.

The main national policies relevant to gender-based violence (GBV) are:

Comprehensive National Human Rights Plan (2016–2025)

National Strategy for Women in Jordan (2013–2017)

National Framework for Family Protection (2016)

National Strategic Plan for Protection against Family Violence (2005–2009)

Communication Strategy on Gender-based Violence (2016–2025)

National Strategy and Action Plan to Combat Human Trafficking (2010–2012)

National Jordanian Strategy for the Elderly (2018–2022)

National Plan for the Implementation of Security Council Resolution 1325 on Women, Peace and Security (2017)

The second objective of the Third Pillar of the *Comprehensive National Human Rights Plan (2016–2025)* is the promotion and protection of women's rights to ensure justice and equal opportunities. Key activities listed in the plan for achieving this objective are:

To review laws related to women's rights and propose amendments in a participatory framework.

To ascertain the extent of the application of the legislations related to women's rights in public and private sector institutions.

To provide a safe environment for women to live a stable life in the family, work, and society.

To conduct a comprehensive revision of national plans, strategies, and programmes targeting their development and implementation to ensure women's enjoyment of rights.

To draft national policies that empower women and take into account financial aspects within the general budget law.

To organize capacity-building programmes for governmental and non-governmental institutions regarding women's rights.

Policies on domestic violence and family protection

The response to GBV was first organized under the *National Framework for Family Protection*, which was developed in 2006 under the umbrella of the NCFA to coordinate the work of the Ministry of Education, Ministry of Health, and the Ministry of Social Development, including defining procedures and protocols for protecting victims of violence.

The *National Strategy for Family Protection (2005–2009)* was guided by the National Framework and included six components: prevention, protection, developing human resources and institutional capacities, legislation and policies, networking and collaboration, and research and studies. It provided an action plan for the implementation of these components. The National Strategy identifies NCFA as the managing entity for following up and monitoring the implementation of the action plan.¹

The Ministry of Social Development issued a Communication Strategy on GBV in 2014,² focusing primarily on violence and its harms, financial consequences associated with violence, and the threat to life of those abused. The Strategy addresses behaviours related to physical violence that occur between members of the family, noting that "violence is a social behaviour that is legally condemned and socially rejected." Its main message is to employ correct understanding of customs, traditions, and religious teachings to curb violent behaviours in society.

The *National Strategy for Women in Jordan (2013–2017)*, which addresses women's protection from violence based on gender, is being updated for 2018–2022.

Legal and support services

Access to justice

Article 101 of the Jordanian Constitution provides for the right to access justice. However, Jordanian laws do not guarantee the right to legal counsel or representation for most legal matters. An exception to this is criminal cases where the crime is more than ten years in prison, punishable by execution or life imprisonment.³ Juveniles in criminal cases also have a right to legal aid.⁴

While the law on civil rights and civil claims does not allow an individual to appear before the courts without a lawyer in cases where the claim exceeds 1,000 dinars, in personal status and criminal cases, the law allows individuals to be represented without a lawyer.

Courts may postpone the payment of legal fees to persons who are unable to pay court fees, although all payments need to be made at the time that the sentence is issued.

¹ National Council for Family Affairs, (NCFA), Status of Violence against Women in Jordan (2008), <http://ncfa.org.jo:85/ncfa/sites/default/files/publications/reality-violence-against-women-jordan.pdf>.

² Ministry of Social Development, Communication Strategy on Gender-Based Violence (2014–2017), <http://www.mosd.gov.jo/images/files/nawo.pdf>. See also <http://www.jordantimes.com/news/local/social-development-ministry-launches-strategy-combat-gender-based-violence>; and Jordanian National Commission for Women's Affairs, National Report of the Hashemite Kingdom of Jordan (Beijing +20) (June 2014), <http://www.escwa.org.lb/sites/BeijingPlus20/docs/JordanAR.pdf>.

³ Art. 208 of the Code of Criminal Procedure provides that individuals must have a lawyer if the penalty for a crime is more than ten years in prison. In such cases, and for persons who are unable to afford legal fees, the court is required to appoint a lawyer.

⁴ Law on Juveniles, No. 32 of 2014, Art. 21.

Women face numerous obstacles in accessing justice through the courts. Women face social obstacles because they may fear embarrassment and further injustices as a result of claiming their rights, especially if the case involves family members. This perpetuates stereotypes of male domination that limit women's enjoyment of their legal claims to their rights. In many cases they are pressured to compromise in favour of other parties.

Law enforcement agencies and judicial institutions lack training and sensitization on gender issues. Though women have been appointed to the judiciary since 1995, they are poorly represented in the judicial system with just 19 per cent of judges and 27 per cent of all practising lawyers. In 2018, the first woman was appointed to the Court of Cassation. **No women serve in the Sharia Courts, although qualified women are permitted to serve in this role.** The presence of female lawyers and judges encourages women to claim their rights through the legal system and increases their knowledge about their legal rights.

Legal and Support Services for Women

In 2014, the Ministry of Justice established a legal aid department and in 2016 it began providing assistance in cooperation with the Registry of Lawyers and civil society organizations.

The Jordanian Women's Union and Women's Legal Guidance Centre in Zarqa were the first civil society organizations to provide legal aid to women in the early 1990s in Amman and Zarqa. In 1995, the Jordanian Women's Union launched the first hotline for women victims of violence. This service continues to provide legal, social, and psychological counselling to women victims of violence.

The JNCW's Women's Complaint Office provides legal aid to women who are survivors of violence. Violence complaints can be registered with the Women's Complaints Office, which provides advice on options for resolving cases and referrals to lawyers as well as other support, health, and financial services.

The National Centre for Human Rights is an independent human rights institution established by Law No. 51 of 2006. It receives and follows-up on complaints of human rights violations, especially women's rights to equality and access to justice. These are followed-up by parties that implement awareness programmes on women's rights and their protection from all forms of violence in all governorates, with a focus on rural and underprivileged areas. The National Centre deals with gender discrimination cases through its complaints unit, and it cooperates with the Bar Association to refer cases for legal representation.

The Bar Association, which provides legal aid to the poor, signed a Memorandum of Understanding with the Ministry of Justice in 2015 to provide legal aid services at its headquarters in Amman and other subcommittees that are linked with other governorates. Furthermore, in 2016 the Ministry of Justice issued regulatory instructions establishing the Legal Assistance Department within the Ministry to handle the procedures for granting legal aid. These instructions limit free legal services to legal advice and representation in cases authorized by law, meaning Article 208 of the Criminal Procedure Law.⁵

Civil society organizations have become critical providers of legal aid in Jordan. The Association Act allows the registration of associations providing legal aid services and the inclusion of this service within its objectives. Each association differs in the nature and target groups of the legal aid it provides. Some organizations provide legal representation services only, while others provide consultations only, and still others provide both services in addition to legal awareness programmes. Vulnerable women remain a priority target group for most of these organizations.

The Justice Centre for Legal Aid (JCLA) provides legal aid services to a large number of Jordanians as well as Syrian, Iraqi, and Palestinian refugees in need of better knowledge and representation.⁶ A Memorandum of Understanding between the Ministry of Justice and JCLA was signed in 2016 for cooperation in providing legal aid services. The programme provides legal information, counselling, and legal representation. Over 70 per cent of clients are women. JCLA operates 19 centres that provide free legal counselling services, representation, and referral to specialized police assistance through the Family Protection Directorate.

The Arab Renaissance for Democracy and Development (ARDD) was founded in 2008 as a legal aid resource for refugees and vulnerable communities in Jordan. With eight legal aid offices distributed throughout the country, women's access to justice has constituted a programmatic priority in the work of ARDD. Depending on cases identified, the organization offers consultation, mediation, and/or legal representation to women in need. Specialized services to women include a combined delivery of psychosocial support and legal awareness sessions, as experience has shown that legal awareness remains insufficient without sufficient self-confidence and assertiveness to claim rights.

Since its establishment in 1998, the Association of the Jordanian Women's Solidarity Institute (*Tadamoun*) has provided legal, social, and psychological assistance to women. It also provides women with rehabilitation and mediation services, as well as services for girls' welfare centres run by the Ministry of Social Development. The NGO "Mizan" provides similar services to women. The Tamkeen Centre for Legal Aid and Human Rights also provides legal assistance to workers, specifically migrants and victims of human trafficking. The Legal Aid Centre specializes in providing legal assistance services to Syrian refugees. The Princess Taghreed Foundation provides legal counselling services to women in Jerash and Irbid governorates, and has established a civil society association network to promote awareness of legal rights by training local community cadres on a number of legal guides so as to be able to transmit legal information to members of their community.

Although civil society organizations offer legal services to women, they remain insufficient to meet demand, and a large number of women are not knowledgeable of their rights and are denied access to the courts because of their inability to pay for a lawyer.

Social services

The Family Protection Directorate is part of the Public Security Department, with responsibility to investigate and handle cases of domestic violence and sexual abuse as a specialized police centre. It also operates a hotline.

5 Arab Renaissance for Democracy and Development, *Legal Aid in Jordan: A view from Civil Society* (2018), p. 6.

6 World Bank, *Mainstreaming Initiatives to Tackle Gender-Based Violence* (14 April 2014), <http://www.worldbank.org/en/results/2014/04/14/mainstreaming-initiatives-to-tackle-gender-based-violence>.

The Ministry of Social Development established the Family Reconciliation House (FRH), *Dar al Wifaq*, in Amman in 2007 to provide shelter for domestic violence survivors. It employs social and legal experts who attempt to mediate conflicts between the survivors and their abusers. In 2013, the FRH accepted 864 cases of women survivors of violence who were accompanied by 165 children.⁷ *Dar Al-Wifaq* also operates a shelter located in the northern province of Irbid, and work is under way to establish another one in the southern region.

The Legal Women's Union provides services as one of the mechanisms of the Jordanian Women's Union to combat violence and discrimination against women. The programme provides a number of specialists in legal, social, psychological, and other services for women survivors of violence in accordance with human rights and feminist principles. Services are provided in Amman and centres of the Jordanian Women's Union in Irbid, Ramtha, Zarqa, Salt, Madaba, Baqaa, Haddat, and Hittin.

The Women's Shelter programme is a new protection mechanism for women who are threatened and in need of a safe place to stay temporarily until they are able to access necessary services. Under the programme, a health clinic has been established to provide services to women victims of violence and to promote health awareness among women in general.

In 2012, a system of shelters for survivors of human trafficking crimes was established, based on the provisions of Article 7 of the Prevention of Human Trafficking Law, which aims to provide accommodation for victims until their cases are resolved and they are returned to their country of origin or another country. The shelters provide social care and psychological, health, and legal services. Men and women are in separate accommodations and adult and minor victims are separated. The Dar Karama shelter for trafficking survivors was established in Amman in 2015 under the Ministry of Social Development.

The UN Refugee Agency has an agreement with national institutes and NGOs to provide services for refugees who are survivors of GBV.

PROTECTION FROM DOMESTIC VIOLENCE AND SEXUAL VIOLENCE

Law on Protection from Domestic Violence

The Law on Protection from Domestic Violence No. 15 of 2017 was promulgated on 27 April 2017. It replaces the previous Law on Protection from Domestic Violence No. 6 of 2008.

The law requires the Family Protection Department to settle disputes in misdemeanour cases filed by victims, and it enables courts to impose protective measures and protection orders. In addition, specialized judges are identified to address urgent violence cases. After the law came into effect in 2017, the Judicial Council appointed 107 judges to consider domestic violence cases across the country in a specialized manner. The Judicial Council adopted a guide for judges on responding to cases of violence against women prepared by the Legal Network for Arab Women. Eighty judges have been trained in the central and southern governorates.

Due to the sensitivity of these type of cases, the law provides for expeditious processes, including that the courts hold special sessions on holidays and evenings. All domestic violence cases are dealt with confidentiality.

The law defines domestic violence as a crime against a person committed by a family member against any of its members.⁸ Members of the family are defined to include:⁹

Husband and wife

Relatives in proportion to the third degree

Relatives who are married to the second degree

Relatives of the fourth degree and the relatives in the marriage of the third and fourth grades provided that they reside in the family home

A child who is in the custody of a natural person (parent/guardian) or an alternative family in accordance with the provisions of the legislation in force

Legal and social services providers are also required to provide educational services.¹⁰

Courts that hear personal status cases that find a case of family violence must provide the Family Protection Department with a copy of the case file.¹¹

The Family Protection Department is mandated to receive every complaint, notification, and request for assistance or protection related to domestic violence and to take action in response as quickly as possible. In any case of family violence, the law requires all parties to be referred to the Family Protection Department for necessary actions.¹²

The role of the Family Protection Department includes:

Record the complaint or report in detail.

Organize the necessary records for each case.

Transfer the victim to the nearest hospital or health centre, if necessary.

Transfer the injured person with consent to a secure location, if necessary.

Take action to protect informants and witnesses.

7 Jordan National Commission for Women, National Report of the Hashemite Kingdom of Jordan (Beijing +20), (June 2014), <http://www.escwa.org.lb/sites/BeijingPlus20/docs/JordanAR.pdf>.

8 Law on Protection from Domestic Violence of 2017, Art. 2.

9 Ibid., Art. 3.

10 Ibid., Art. 4.

11 Ibid., Art. 5.

12 Ibid., Art. 6.

Settlement of disputes in misdemeanours cases of violence involves the following:

The consent of both parties or a legal representative in the case of minors or incompetent persons. In such cases, the Sharia Court shall appoint a representative.

The settlement does not include financial compensation.

The Family Protection Department is required to transfer the file to the prosecutor to take legal action for crimes that are more serious than misdemeanours.

In resolving disputes between parties, the Family Protection Department is committed to:

Call the parties, hold the settlement session, and record it in the file.

Take into consideration the status and circumstances of the family.

Record the signed settlement by both parties to the conflict and accompany it with a report on the social status of the family prepared by the psychosocial specialist.

The Family Protection Department has 14 days from the date of the first session to settle disputes. It is possible to extend the period once only for a similar period of time. In this case, the law requires the opinion of the psychosocial specialist.

Upon completion of the settlement process or the expiry of the legal period, the settlement file shall be referred to the competent court whether or not the settlement is settled.

The court approves the settlement decision without requiring the presence of the parties within a period not exceeding seven days from the date of receipt of the settlement file and its decision to approve the settlement shall be final.

In the event that the court does not approve the settlement decision or if a decision is not reached, the settlement will be rejected by a reasoned decision within seven days.

If the court rejects the settlement, the parties have the right to appeal the decision.

The court's decisions are based on the report of the psychosocial specialist and shall take any of the following measures to be included in the approval of the settlement decision:

Compel the perpetrator of domestic violence to provide public service for a period not exceeding 40 working hours in one of the public facilities or associations approved by the Minister and with the consent of the parties.

Prohibit the perpetrator to visit any place for a period not exceeding six months.

Provide the parties access to programmes or psychological or social rehabilitation sessions for a period not exceeding six months.

Any person who does not carry out any of the measures provided for, in whole or in part, shall be punished by imprisonment for a term not exceeding three months.

The court shall have the power to review the prescribed measure.

The court can issue protection orders for victims and any family member at the request of either of them and in the absence or presence of the perpetrator of domestic violence. Orders may include:

Not to assault or incite assault on the victim or any family member.

Not to approach the place where the victim or any member of the family lives.

Not to damage the personal belongings of the victim or any family member.

The victim or any member of the family or a representative is allowed to enter the family home with a member of the Family Protection Department to take personal belongings.

Any order the Court considers to be effective to protect the victim or potential victims who may be harmed by their relationship with the perpetrator.

If the perpetrator of the domestic violence violates the order or any of its conditions, he shall be punished by imprisonment for a period not exceeding one month or by a fine not exceeding 100 dinars or both. If the violation of the order is accompanied by violence against any person covered in the order, the perpetrator shall be punished by imprisonment for a term not exceeding three months or by a fine not exceeding 200 dinars or both penalties, subject to any heavier penalty provided for in any other law.

If the protection order is violated more than twice, the perpetrator of violence shall be punished by imprisonment for a period of not less than three months and a fine of not less than 100 dinars.

Limitations of the law on domestic violence include that the definition of violence is not in line with the UN Declaration on the Elimination of Violence against Women.¹³ The Declaration states three categories of violence against women: violence perpetrated by the state, violence occurring within the general community, and violence in the family and the private sphere. Jordan's domestic violence law protects only women within the family and does not extend protection to women without regard to their marital status.

The law provides for the promulgation of protection systems related to litigation and court procedures including a protection system for witnesses.

Protections under the Penal Code, Law No. 16 of 1960

Article 308 of the Penal Code exonerated perpetrators in cases of rape or sexual assault if the perpetrator married his victim. Article 308 was removed from the Penal Code in 2017.

The Penal Code criminalizes most serious assaults and emphasizes special aggravating circumstances if the crime is committed against a minor, caregiver, or a girl or woman with disabilities.

Offenders may be prosecuted under the Penal Code for serious assaults. The Penal Code criminalizes acts constituting sexual and physical violence, injury to reputation, and forms of harassment against women in the public sphere. These types of conduct may constitute crimes of abuse, indecent acts, defilement, libel, and slander.

Penalties for sexual violence vary according to the age of the victim and the relationship with the assailant (e.g., if he is a relative, a caregiver, or a stranger). However, rape in marriage is not a criminal offence.

Customs and traditions prevent many victims from reporting crimes. Often a victim's guardian or family will drop charges to avoid stigma or shame in cases of sexual assault, rape, or murder.

¹³ UN General Assembly, Declaration on the Elimination of Violence against Women, 20 December 1993 (A/RES/48/104).

Penal Code offences that offer protections to women and girls

Article 285: Incest

The perpetrator of incest with a family member (direct relative or second degree relative) is punished with temporary hard labour for at least seven years. If the offender commits this crime with another person under his or her legitimate or legal or official authority, the perpetrator shall be punished with temporary imprisonment for a period not less than five years.

Article 292: Rape

Any person who has sexual intercourse with a female, other than his wife, without her consent, whether by coercion or threat or deception, shall be sentenced to at least 15 years of hard labour.

The sentence shall be the death penalty if the victim is less than 15 years of age.

The penalty shall be 20 years' imprisonment if the victim has completed the 15th year and has not completed the 18th year.

Article 293: Rape of a vulnerable female

Any person who has sexual intercourse with a female, other than his wife, who cannot resist the man's conduct due to a physical or a mental disability, shall be sentenced for punishment under Article 292.

Article 294: Sexual intercourse with a female under 18 years

Any person who has sexual intercourse with a female who is between 15 and 18 years of age shall be sentenced to seven years temporary hard labour. If the victim is between 12 and 15 years of age, the minimum penalty shall be 15 years. If the victim is under 12 years, the penalty in Article 292(2) applies.

Article 295: Sexual Intercourse with a female between 15 and 18 years of age

Any person who has sexual intercourse with a female who has reached 15 years of age, but is less than 18 years of age, and is an ascendant, whether legitimate or not, step-father, the husband of the paternal grandmother, or the caregiver of the girl, shall be sentenced to temporary hard labour for 20 years. The penalty is permanent hard labour if the victims is between 12 and 15 years old.

The law prohibits the perpetrator of any authority over his victim. The same penalty shall be imposed if the perpetrator of the act is a clergyman, or a director of an employment office, or an employee therein, who commits such an act by abusing the power or privileges granted to him.

Articles 296-299 and Article 320: Indecent acts

Article 296: Hatek 'ard (any sexual act that does not amount to rape)

Anyone who violates the law by force or threat shall be punished by imprisonment for a period of not less than four years. The minimum sentence shall be five years if the victim has completed 15 years and has not yet attained the age of 18 years. The minimum sentence shall be seven years if the victim has completed 12 years of age and has not attained the age 15 years.

Article 320: A person who has committed an indecent act or made an indecent gesture in a public place or in public society or in a place where he can be seen from a public place shall be penalized for no more than one year in prison and a fine of 200 dinars. The penalty shall be doubled if the act is committed by more than one person or if repeated.

Article 302: Abduction

Whoever abducts a person through deception or force shall be punished by the following:

Imprisonment of one to three years if the abducted person is a male below the age of 15.

Temporary hard labour if the abducted person is a female.

Hard labour for a period not less than five years if the abducted female is married regardless if she has attained 15 years of age or not.

Hard labour for a period not less than ten years if the abducted person, whether male or female, was assaulted by either rape or indecent acts.

Hard labour for a period not less than ten years if the abducted female was married and below 15 years of age and was sexually assaulted.

Hard labour for a period not less than seven years if the abducted female was married and above 15 years of age and was sexually assaulted.

To the penalties provided for in paragraphs 1-6 of this article shall be added from one sixth to one third if the victim is a person with a disability.

Article 304: Seduction

Unless a harsher sentence is deserved, a prison sentence for a period of six months to three years shall be imposed upon any person who deflowers a virgin who has reached 18 years of age after promising to marry her.

Article 305: Unwanted sexual contact

A prison sentence for a period not exceeding one year shall be imposed upon any person who engages in unwanted sexual contact with:

A person, male or female, who has not attained 18 years of age; or,

A person, male or female, who has reached 18 years of age, but without their consent.

HONOUR CRIMES

In the past, Article 98 of the Penal Code was applied to reduce penalties for men who perpetrated violent crimes against women, such as murder or assault, after the woman had committed a dishonourable act. Article 98 was amended in 2017 to prevent it from being used to reduce penalties for so-called 'honour' crimes against women.

The first clause of Article 98 provides: "He who commits a crime in a fit of fury caused by a wrongful and dangerous act on the part of the victim benefits from a reduction of penalty." In 2017, a second clause was added to Article 98 stating the perpetrator shall not benefit from the mitigating excuse if the act is committed against a female, outside the provisions of Article 340.

Article 340 of the Penal Code provides for a reduction of penalty in cases where a wife or husband is murdered or assaulted when they are surprised (caught) in the act of committing adultery by their spouse. Article 340 remains in the Penal Code and provides for the following:¹⁴

Whoever surprises (catches) his wife or one of his female decedents or ancestors or sisters during the act of adultery or in an illegitimate bed and murders her immediately, or her lover, or both of them, or assaults her, or both of them and the assault resulted in death or injury or harm or permanent disfiguration, he shall benefit from a mitigating excuse (reduced penalty). The wife who surprises (catches) her husband in the act of adultery or in an illegitimate bed in their matrimonial home and murders him or his lover or both of them immediately or assaults him or both of them and the assault resulted in death or injury or harm or permanent disfiguration, she shall benefit from the same mitigating excuse (reduced penalty) mentioned in the paragraph above.

The right of lawful self-defence shall not be permitted to the person who benefits from this excuse nor shall the provisions of "aggravated circumstances" (*zuruf mushaddida*) apply.

Protective detention of women and girls¹⁵

The prevalence of honour killings has given rise to a system of protective detention of women and girls through administrative detention orders. A person whose life is under threat may be incarcerated by the regional governor under the Crime Prevention Law of 1954. Women and girls whose lives are deemed to be threatened by a family member for reasons related to family honour may be forcibly detained for their protection. Women may be released if the guardian provides an undertaking that he will not harm her. However, the governor can refuse to release the woman if her life is still in danger.

3,073 women were held in detention centres for women in 2016 (in Um El Loulou and Juwaideh). Of these, 1,721 were administratively detained (56 per cent), compared to 2,052 in 2015.

This system of protective administrative detention violates the fundamental human rights of women and girls to liberty and freedom of movement. A new system of shelters for vulnerable women has therefore been established by the Ministry of Social Development to replace administrative detention. In 2017 the Ministry began the implementation of the project to protect women at risk. The establishment of the system terminates the filing for administrative detention of women at risk of violence on the grounds of honour and seeks to instead provide shelters. This will prevent women who are under threat of violence being held in the same detention spaces as women with serious criminal records. The shelters to be established as part of this programme are intended to provide a temporary residence for women transferred from detention centres and to support them to be independent, with access to health and support services.¹⁶ However, advocates are concerned that women residing in these new shelters may still be denied the right to freedom of movement.

ADULTERY AND SEX OUTSIDE OF MARRIAGE

Adultery is an offence under Articles 282–284 of the Penal Code (Misdemeanours Relating to Family Norms and Morals), with a penalty of one to three years' imprisonment. The law penalizes the crime of adultery if the complaint is made by the husband or wife if they are married or by a woman's guardian if she is unmarried. The right to pursue a claim ends three months after the date of the complainant's knowledge. The penalty shall be severe (*mushadad*) if adultery is committed in the marital home.

Consensual sex between an adult man and adult woman neither of whom are married is not criminalized.

¹⁴ Penal Code, No. 16 of 1960, Art. 340 (Penal Code as amended by Temporary Law No. 86 of 2001 and Temporary Law No. 12 of 2010 and as amended in 2017).

¹⁵ The National Centre for Human Rights, "The inmates of reform and rehabilitation centers join international standards and practical reality" (March 2015).

¹⁶ "Long awaited women shelter to open in May," Jordan Times, 11 April 2018.

ABORTION FOR RAPE SURVIVORS

Abortion is prohibited by Articles 321–325 of the Penal Code, including for women who have been raped. Any person performing an abortion is subject to one to three years' imprisonment. If the person is a medical professional, the sentence is increased by a third. A woman inducing her own miscarriage or allowing it to be induced is liable to six months to three years' imprisonment. Penalties are reduced if the abortion is performed by the woman, a descendant, or relative up to the third degree in order to save her honour (Article 324).

If an abortion leads to the death of a woman, the person performing the abortion is sentenced to temporary hard labour for a period of not less than five years (Article 322(2)).

The law also punishes any person who deliberately aborts a woman without her consent to hard labour for a period not exceeding ten years (Article 323(1)). The penalty shall not be less than ten years if the abortion leads to the death of the woman (Article 323(2)).

Article 12 of Public Health Law No. 47 of 2008 prohibits doctors from providing advice on abortion or from performing an abortion except when necessary to prevent a threat to the life or health of the pregnant woman. The law does not clearly define the woman's health but refers to mental and physical health in general.

Since 1993 a number of *fatwas* addressing abortion have been issued.¹⁷ The most recent was Decision No. 204 of 2014 by the Jordanian Council for Jurisprudence. This *fatwa* dealt with abortion of a pregnancy that occurs as a result of rape or incest, requesting each case to be assessed individually.

FEMALE GENITAL MUTILATION/CUTTING (FGM/C)

Since its establishment in 2003, the National Centre for Human Rights has not documented any cases of FGM/C, though Jordan has no specific legal prohibition of FGM/C.

FAMILY MATTERS

Overview

Religious courts have jurisdiction over family matters. There is no civil marriage or civil divorce. Matters of personal status (family matters and inheritance) are regulated by the Temporary Personal Status Law No. 36 of 2010, which applies to Muslims, Druze, and Bahais. Sharia is the main source of legislation for the Personal Status Law, in addition to *urf* (customary law). Sharia Courts decide on personal status matters for Muslims; Christians may apply their own laws for marriage and divorce. Religious courts for each Christian denomination adjudicate in matters relating to family and divorce.

Under the guardianship system, a male relative (*wali*) acts as guardian on behalf of an unmarried woman under the age of 40 (whether divorced, widowed, or single).¹⁸ The guardian's consent to marriage is required to a first marriage. The consent of the guardian to a woman's marriage is not required if she has reached the age of 18, is reasonable, and has been previously married.¹⁹ Marriage contracts are signed between the husband and the wife's guardian, with an exception for women marrying for the second time (who do not require family approval) or if a judge decides a guardian's opposition to the marriage is unjustified. A guardian is required to supervise unmarried females up to the age of 40 in relation to their needs, including for physical, psychological, or mental well-being, and woman under guardianship are considered to be economically dependent.

Child marriage

The legal age of marriage is 18 years.²⁰ However, a judge can still consent to the marriage of a minor who is 15 years or older if there is a 'general interest' as defined by Sharia court judges.²¹

¹⁷ Council for Jurisprudence (Ifta'a) permits the abortion of pregnant women if the pregnancy is proven to threaten a woman's life (13 June 1993): "The embryo in the mother's womb shall be delivered from four months or more: it may not be miscarried. The doctors determine whether it is possible for the foetus to continue its life, unless its survival poses a real danger to the mother's life. An abortion is permissible within the first four months of pregnancy provided with the consent of the couple."

¹⁸ Temporary Personal Status Law No. 36 of 2010, Arts. 14–15.

¹⁹ Ibid., Art. 19.

²⁰ Ibid., Art. 10(a).

²¹ Ibid., Art. 10(b).

Instructions for granting permission to marry a minor under 18 years of age have been issued to restrict the judge's authority in such cases. There are regulations for vulnerable women who require care. There are also strict directives that evaluate the benefit of the marriage for both parties and a special committee for the study of these cases. A girl between the ages of 15 and 18 who marries early has the same rights as an adult with regard to bringing a court case, receiving maintenance, and other marital rights. A legal representation unit has been introduced in courts to represent women and children in case they are unable to plead for themselves and risk losing their rights.

Proposed amendments to increase this age for exceptional cases from 15 to 16 years are under consideration by the Parliament, a move supported by the National Committee for Women's Affairs. Sixteen is the compulsory age for basic education, and the law on civil matters acknowledges a person to acquire civil status at that age.

There was no significant decline in child marriages registered in the Sharia Courts from 2005 to 2013, with the rate ranging from 14.3 per cent in 2005 to 13.2 per cent in 2013. The vast majority of these child marriages involved girls aged under 18.²² The number of early marriages (under 18 years) reached 10,907 cases in 2016, but only 334 of these cases were for boys.²³ Amman has the highest number of early marriages (3,318 cases) followed by the governorates of Irbid (2,265 cases), Zarqa (2,083 cases), Mafraq (1,318 cases), Al-Balqa (536 cases), Jeresh (297 cases), Madaba (231 cases), Ajloun (223 cases), Aqaba (177 cases), and Tafila (51 cases).

Child marriage is a culturally accepted practice for many Syrian refugees in Jordan.²⁴ The UN Committee on the Rights of the Child has expressed concern that the Government of Jordan registers Syrian women and girls as "married" even if the marriage in Syria was illegal because the girl was under age.²⁵

Marriage contract

A woman is entitled to set conditions in the marriage contract before agreeing to marry, such as being entitled to work.²⁶ Women rarely exercise this right either because they do not understand that they have the right to set such conditions or because they feel that they may endanger their marriage if such conditions are required. Half of Jordanian women do not have any knowledge that they can stipulate in their marriage contracts a condition not to allow the husband to take another wife.

The Personal Status Law allows a parent or husband to prevent a woman from working if it is considered that doing so would harm family unity. A woman can only object to her husband's decision if she has requested a condition in the marriage contract that her husband cannot prevent her from working.

Men have legal obligations to provide materially and financially for their wives.²⁷ The wife owes obedience to her husband.²⁸ The term "obedience" includes restrictions such as a woman must obtain permission to work outside the home. She can work provided that her husband views her work as legitimate and has agreed to it.²⁹ If a wife pursues employment without her husband's consent, she loses the right to financial maintenance.³⁰ The concept that approval is necessary to legitimize a wife's choice of work stems from the injunction in Sharia that a wife should obey her husband. Once a husband has accepted the wife's work, he cannot negate her right to maintenance by subsequently withdrawing his approval. The husband cannot object to his wife's work if she was already employed before they married.

The number of wives claiming maintenance is increasing. The annual statistical report for 2016, issued by the Chief Justice of Jordan, pointed out that the total claims for maintenance amounted to 11,850 in 2016, the highest number since 2012. Claiming maintenance through the courts is difficult for women. Women and children in particular suffer during the long period from the initiation of the case to proving the husband's income and ending with the collection of this maintenance. They also suffer from the limits to the amount they can claim, which is inadequate to meet basic needs, such as food, clothing, health, and education. A By-Law for establishing an Alimony Fund has been issued to ensure women receive financial support if the husband refuses to support her after separation. However, the Fund is not yet operational.

The wife retains rights over her own property and, unlike her husband, she is not obligated to use any of her income to support her family. Any money she earns independently belongs to her alone. However, the husband is considered the legal guardian of the children. The wife is only granted custody.

Polygamy is permitted for Muslim men, but the husband must prove financial ability to support more than one wife and must inform an existing wife of his intention to take an additional wife.³¹

Divorce

Divorce may follow three different procedures: divorce due to abuse or other grounds,³² divorce without grounds initiated by the husband (*talaq*),³³ or divorce without grounds initiated by the wife (*iftida*).³⁴

Abuse as grounds for divorce

Although assault and abuse are accepted as grounds for divorce, it is often very difficult for a woman to prove her case because Sharia Courts require the testimony of two male witnesses in these circumstances. This discourages many women from

22 United Nations Children's Fund (UNICEF) Study on early marriage in Jordan. (UNICEF Amman, 2014), http://www.unicef.org/jordan/UNICEFJordan_EarlyMarriageStudy2014-E_COPY_.pdf.

23 Annual statistical report for 2016 of the Department of Statistics.

24 United Nations High Commissioner for Refugees, Sexual and Gender-Based Violence Sub-Working Group, Sexual and gender-based violence: Syrian Refugees in Jordan, March 2014.

25 WANA Institute, "The Status of Legal Empowerment in Jordan: Evidence to support the post-2015 development Agenda" (Amman: WANA Institute, 2014), p.19.

26 Personal Status Law No. 36 of 2010, Art. 37.

27 Ibid., Arts. 59-62.

28 Ibid., Arts. 60, 78.

29 Ibid.

30 Ibid., Art. 61.

31 Ibid., Art. 13.

32 Ibid., Arts. 115-144.

33 Ibid., Arts. 80-82.

34 Ibid., Art. 114.

initiating legal procedures. Other acceptable grounds for divorce include the husband's failure to provide a home or financial maintenance, and his unjustified absence for more than one year.

Either the husband or the wife is permitted to petition for divorce on the grounds of discord and strife causing such harm as to make cohabitation impossible. The case goes before a judge, who tries to reconcile the couple. If this is unsuccessful, the case goes before two arbitrators who gather evidence on the marital situation before making a decision. One arbitrator is chosen from each side of the family.

The arbitrators rule on the terms of the divorce and any due compensation, which the judge then reviews and ratifies. If the arbitrators deem that the wife is in the wrong, a divorce will be granted in exchange for compensation to the husband. If the wrongs were committed by the husband, a divorce will be granted and the wife can ask for compensation. If the wrongs are shared, divorce will be granted in exchange for a division of the *mahr* in proportion to the wrongs of each side.³⁵

Husband's right to arbitrarily divorce without reason

The most common form of divorce, available only to men, is *talaq* (arbitrary divorce), which permits a husband to divorce his wife without providing any legal reason.³⁶ Women who have been divorced by this method have the right to compensation. Following *talaq*, the wife has the right to keep her dowry and the maintenance accumulated during the *iddat* (compulsory waiting period after separation before the divorce takes effect).

Wife's right to initiate divorce without grounds

Woman may initiate divorce without the consent of a husband (*iftida*).³⁷ *Iftida* enables a woman to initiate a divorce without having to prove grounds. Article 114 of the Personal Status Law of 2010 provides that if the wife requests separation from her husband and they are unable to continue their marital life, the wife may use *iftida* to divorce her husband by forgoing her financial rights. The court tries to reconcile the spouses, and if within 30 days they are not able to reconcile, the court may annul the marriage contract between them.

If a woman decides to ask for a divorce through *iftida*, she has to deposit the full value of the dowry she received from her husband to the court's fund. But when a man decides to divorce his wife, he is not asked to deposit any money. In addition, he can pay the dowry in instalments. *Iftida* may not be a viable option for women who cannot afford to give up financial maintenance or to return their dowry.

The *iftida* provision contributes to the solution of problems for many women. However, the requirement that a wife return her dowry, which is taken in full in a single payment, is often not a feasible option unless the woman is financially privileged. Poor women are often unable to return their dowry as they lack the financial resources to spend on themselves and their children.

Guardianship and custody of children

Fathers are the sole legal guardians of children.

A mother has custody of children until they are 15,³⁸ after which children may decide with which parent they wish to live. A judge may authorize the extension of the mother's custody for her female child to the age of 18, if it is in the best interest of the child. However, the authority for major decisions that relate to the child remains with the father as the sole guardian. The primary consideration in custody disputes is the best interests of the child, and since 2012 joint custody arrangements have been given legal recognition.³⁹

A mother loses her right to custody if she marries someone who is not a close blood relative (*muhamam*) to her daughter.⁴⁰ The child's *muhamam* is her father, uncles, and brothers. The result is that if the mother wants to marry again without losing her custody, she must choose from among the uncles or brothers of her former husband's family. This restriction contravenes the principle of the best interests of the child.

A non-Muslim woman married to a Muslim man automatically loses custody when her child reaches seven years.⁴¹

INHERITANCE

Sharia rules of inheritance must be applied by courts of all religions.⁴² Women's rights to a share of inheritance are defined and protected by law. Women may inherit from their father, mother, husband, or children and, under certain conditions, from other family members.

35 Ibid., Arts. 126–127.

36 Ibid., Arts. 80–82.

37 Ibid., Art. 114.

38 Ibid., Art. 173.

39 United Nations Office for the High Commissioner for Human Rights, "Committee on Rights of Child examines report of Jordan on the Convention, Children in armed conflict and the sale of children," 27 May 2014, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14649&LangID=E>.

40 Personal Status Law, Art. 171.

41 Ibid., Art. 172.

42 Civil Law, Art. 1086.

In some important respects, women are treated less favourably than men. Their share of an inheritance is generally half of that to which men of the same relationship are entitled. A sister receives half the amount that a brother receives. A husband receives twice the amount from his deceased wife's estate compared to the amount the wife receives from the estate of her deceased husband.

Although women's rights to inheritance are clearly stated in the law, in practice many women are effectively denied any inheritance, particularly in traditional rural communities.⁴³ Women are subject to social pressure to waive their shares to avoid bringing shame on the family. Traditionally, the family property is inherited by the males in the family and women are often pressured to give away their inheritance to their brothers. Women have low levels of ownership of family assets such as land, apartments, livestock, tools, and machinery due to deprivation of inheritance.

To prevent women from being pressured to give up their inheritance quota, rules have been introduced to restrict exit transactions (voluntary waiver of inheritance quotas). The property of the deceased must be registered in the name of the female immediately after death, and there is a three-month waiting period before a female can waive her inheritance rights. Registration of any public or private exit transaction is prohibited by court instructions introduced in 2011 for three months after the death.⁴⁴ This provision temporarily protects women from the pressure that male family members sometimes place on women to waive their inheritance rights immediately after a death. However, the instructions stipulate that the public exit transactions may be registered with the approval of the judge before this period has passed, where there is legal justification. These instructions require strengthening to prevent women from being forced to give up their inheritance quotas. The Association of the Jordanian Women's Solidarity Institute has proposed amendments to these rules, including the criminalization of coercion in these cases.

NATIONALITY

Under the Nationality Law No. 6. of 1954 women cannot pass citizenship to their children or spouse in the same way as men. Jordanian women married to non-Jordanian men cannot pass their citizenship to their children or husbands, although they may retain their own Jordanian citizenship. As a result, children who are unable to obtain citizenship are denied employment opportunities and are unable to access certain services, such as free education and health services, unless they qualify for a special identity card. Jordanian mothers have to reside legally in Jordan for at least five years before their children are eligible for the identity card.⁴⁵ Women nationals can confer their nationality to their children only in special circumstances, such as where the father's nationality is unknown, the father is stateless, or where the father's filiation is not established.⁴⁶ Jordanian men do not have similar restrictions on passing their citizenship to their child or spouse.

Foreign women and girls who are married to Jordanian men are not fully protected under Jordanian law, which exposes them to increased security risks. A non-Jordanian woman who marries a Jordanian man must wait three years for citizenship. Although this provision applies not just to refugees and asylum seekers but to all foreign women, it can be particularly harmful to women who have travelled from conflict zones seeking to settle and start a family in Jordan. If the marriage does not last for three years, the woman loses her Jordanian residency. She then has the option of registering as a refugee to be settled in a third country rather than Jordan. A mother is at risk of forced separation from her children if her husband dies or divorces her.⁴⁷

LABOUR LAWS

Jordan has ratified the Equal Remuneration Convention No. 100 of 1951 (C100) and the Discrimination (Employment and Occupation) Convention No. 111 of 1958 (C111), which are the two core ILO conventions addressing discrimination regarding employment and occupation.

Entering employment

Regulations issued under the Labour Code No. 8 of 1996 impose legal restrictions on women's employment in some occupations considered arduous or that may pose health and safety risks, including in mines, shipping and dock work, foundry work, making mirrors using mercury, handling of explosives, mineral welding, exposure to lead, and making electrical batteries, pitch, or rubber. Pregnant women are prohibited from working in jobs where they risk being exposed to X-rays, oil and petrol derivatives, and other substances that risk the health of the foetus.⁴⁸

Women are also prohibited from night work between 7:00 p.m. and 6:00 a.m. except in roles specified by the Minister of Labour. The exceptions relate to employment at hotels, coffee shops, places of entertainment, theatres and cinemas, airports, airline companies and tourist offices, hospitals and clinics, jobs relating to the transport of people, and in the information technology sector.⁴⁹

There is no prohibition on discrimination by employers on the grounds of sex or gender in recruitment and hiring for employment.

43 For a detailed discussion, see *Women's Rights to Inheritance: Realities and Proposed Policies* (2012), http://www.johud.org.jo/SystemFiles/SSfile_635143893539732903.pdf.

44 Personal Status Law, Arts. 318, 319; Sharia Supreme Court, Registration of Exit Transactions Instruction of 2011.

45 Human Rights Watch, "Jordan: Biased law leaves non-citizen children adrift" (2018), <https://www.hrw.org/news/2018/04/24/jordan-biased-law-leaves-non-citizen-children-adrift>.

46 Law on Nationality, Law No. 6 of 1954, Article 3(3).

47 Susan MacDougall, "Refugees from inside the system: Iraqi divorcees in Jordan," *Refuge* vol. 28(1), (2011), <http://refuge.journals.yorku.ca/index.php/refuge/article/viewFile/36087/32757>. See also CARE Jordan, *Baseline Assessment of Community Identified Vulnerabilities among Syrian Refugees living in Amman* (2012), <https://data2.unhcr.org/en/documents/details/36380>.

48 Labour Code, Law No. 8 of 1996, Art. 69; Decision issued by the Minister of Labour regarding work and times in which women are not allowed to work, 1997; Decision amending Regulations on restricted working hours and occupations for women 2001. See http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=70550.

49 Ibid.



Remaining in employment

The Constitution provides that “every worker shall receive wages commensurate with the quantity and quality of his work.”⁵⁰ However, the Labour Code does not include a right to equal remuneration for work of equal value.

The Labour Code does not specifically prohibit discrimination on the grounds of sex in the terms and conditions of employment. However, employers are prohibited from terminating women starting from the sixth month of pregnancy or during maternity leave.⁵¹ Agreements made under the Labour Code can also provide protection to women. For example, the collective agreement for the garment industry includes a prohibition against discrimination on the grounds of sex.⁵²

Public sector employees are entitled to 90 days of maternity leave.⁵³ Women employed in the private sector are entitled to 70 days maternity leave on full pay, which is paid by the government rather than the employer.⁵⁴ This is less than the 14 weeks leave period required by ILO standards.⁵⁵ The Social Security Law provides for government maternity benefits to be financed through a 0.75 per cent payroll tax paid by the employer on behalf of male and female employees. Distributing the cost across the payroll for all employees removes incentives to discriminate against women that would exist if the employer was required to pay maternity leave directly to the employee.

Every woman who works in an establishment employing ten or more workers is entitled to a maximum of one year’s unpaid leave to bring up her children.⁵⁶ Employers with at least 20 married women workers must provide childcare for children under four years, if at least ten children are in such an age group.⁵⁷

The Regulation of Flexible Work System, No. 22 of 2017, was introduced to provide greater flexibility in employment conditions for workers with family responsibilities, such as women with responsibilities for child care and pregnant women.

Workplace sexual harassment

The Labour Code allows an employee to resign from work without notice if the employee has been a victim of a sexual assault perpetrated by the employer or the employer’s representative.⁵⁸ It does not grant this right if the assault is committed by another worker in the workplace. If the Minister finds that an employer or their representative assaulted a worker, by beating or sexual abuse, the Minister may order closure of the establishment for a period that is deemed appropriate.⁵⁹

Sexual harassment can be punished as the offence of unwanted sexual conduct under the Penal Code Articles 305 and 306. The Penal Code was amended in 2011 to increase the penalties relating to sexual crimes where the perpetrator was a relative of the female or has legal authority over her, e.g., a *wali*, employer, or supervisor (Article 306 bis). Articles 296–299 and Article 320 criminalize indecent acts.

The Ministry of Labour has established a dedicated office (women’s employment directorate) to deal with complaints of sexual harassment in the workplace. The office is accessible to migrant domestic workers, and interpreters are provided.⁶⁰

Domestic workers

The rights of domestic workers have been covered by regulations issued under the Labour Code since 2008.⁶¹ These provide for a maximum of ten hours of work per day, a minimum of eight hours of continuous rest each day, a weekly day of rest, and regular salary payments.

Jordan relies on foreign migrant workers in several key industries, including domestic work. In 2015, the government estimated there were 53,000 foreign female domestic workers in Jordan, primarily from South-East Asia and East Africa. Despite inclusion of domestic workers in regulations issued under the Labour Code, abuses are still reported, including for non-payment of wages, confiscation of identity documents, restricted freedom of movement, long hours without rest, and verbal and physical abuse.⁶² Female domestic workers are vulnerable to sexual harassment and exploitation.

50 Constitution, Art. 23.

51 Labour Code, Law No. 8 of 1996, Art. 27.

52 Collective Agreement Under the Provisions of the Jordanian Labour Law No. 8 of 1996 as amended (2013), Art. 8, <http://www.ilo.org/legacy/english/inwork/cb-policy-guide/jordangarmentindustrycba.pdf>.

53 Regulation No. 82 of 2013 concerning the Civil Service.

54 Labour Code of 1996, Art. 70; Jordan, Social Security Law No.1 of 2014, Art. 42.

55 International Labour Organization Maternity Protection Convention, 2000 (No. 183).

56 Labour Code, Law No. 8 of 1996, Art. 67.

57 Ibid., Art. 72.

58 Ibid., Art. 29.

59 Ibid.; Law No. 48 of 2008 amending the Labour Code.

60 United Nations Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (24 September 2010), CEDAW/C/JOR/5. See also Jordan Women’s Union, Jordan Shadow Report Submission to CEDAW Committee (2012).

61 Law No. 48 of 2008, amending Article 3 of the Labour Code as follows: “Domestic workers are covered under by laws to be issued for this purpose. Such text shall regulate their contracts, rest hours, inspection, and any other issues concerning their employment.”

62 United States Department of State, Trafficking in Persons Report, Jordan (2017), <https://www.state.gov/j/tip/rls/tiprpt/2017>.



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SEX WORK AND ANTI-PROSTITUTION LAWS

Selling sex is a criminal offence under the Penal Code.⁶³ Use of the Internet to promote prostitution is a crime under the Electronic Crimes Law.⁶⁴ Sex is reportedly sold from nightclubs and other venues,⁶⁵ but sex work is hidden due to criminalization and stigma. Women who sell sex may fear reporting rape or assault to authorities. Criminalization of the sale of sex may contribute to the vulnerability of some women to violence, forced sex work, and trafficking.

HUMAN TRAFFICKING

Jordan is a source and destination country for people subjected to forced labour and sex trafficking. Trafficking survivors in Jordan are primarily from Asia, East Africa, Egypt, and Syria.⁶⁶

The Anti-Trafficking Law No. 9 of 2009⁶⁷ prescribes penalties of up to ten years' imprisonment for forced prostitution and other aggravated circumstances, including child trafficking. The penalty for crimes that do not qualify under aggravated circumstances is six months' imprisonment and a fine. The Anti-Trafficking Law requires the establishment of shelters for victims awaiting deportation. The government has established a shelter for trafficking survivors, and local NGOs offer protection services for abused migrant domestic workers. The Public Security Directorate works in cooperation with local NGOs to assist trafficking survivors and to assist in repatriation. The government encourages trafficking survivors to provide evidence in the prosecution of their traffickers.

The government developed a *National Strategy and Action Plan to Combat Human Trafficking (2010–2012)* to strengthen implementation of the law. The Human Trafficking Office operates within the Public Security Directorate's Criminal Investigation Unit.

SEXUAL ORIENTATION, GENDER IDENTITY, AND RELATED ISSUES

Homosexual conduct between adults in private is not a criminal offence. Transgender women or men can change their legal identity to reflect change of gender. Although lesbian, gay, bisexual, and transgender people are socially marginalized, they are tolerated by civil law. However, there are no specific laws protecting people from hate crimes or discrimination based on a person's sexual orientation, transgender identity, or intersex status.

⁶³ Penal Code, Arts. 306–317.

⁶⁴ Information Systems and Electronic Crimes Law of 2010, Art. 9.

⁶⁵ US Department of State, Trafficking in Persons Report.

⁶⁶ Ibid.

⁶⁷ Law on Protection Against Trafficking of Humans, Law No. 9 of 2009.

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