

## Trespassing Citizenship in Jordan: Women as Second Class Nationals



Ayman Halasa

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Editor's Note: In Jordan, as is the case in Lebanon, a mother is denied the right to transfer her citizenship to her children, while governments concomitantly make promises to approve certain civil rights in order to co-opt the movement and fend off criticism. In both instances, governments cite "demography" as a potential inciter of political or sectarian imbalance to justify their denial of passing on citizenship. However, it is hard to believe anything other than masculinity, for it is the only creed that makes a newborn from a Palestinian father and a Lebanese or Jordanian mother a Palestinian, and not a Jordanian or Lebanese.

Jordan has always been criticized for its Citizenship Law No. 6 of 1954. It is one of 29 countries in the world whose citizenship laws continue to discriminate between men and women when it comes to the transfer of citizenship to children.

These countries insist on maintaining their laws despite their approval and adoption of the principle of equality between women and men, as stipulated in the United Nations Charter of 1945, and in subsequent agreements related to human rights – the most prominent of which is the 1979 Convention on the Elimination of all Forms of Discrimination against Women. They have done so by expressing reservations on texts related to this issue. This is the case in Jordan, which justifies this reservation by saying that "the Arab League member states agreed on prohibiting any Arab country from granting citizenship to Palestinians in order to preserve Palestinian identity".[1]

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Jordan's reservation is notably due to the effort to preserve Palestinian identity. However, this justification does not hold water in the case of a Jordanian woman who is married to a non-Jordanian with a different citizenship.

The main reason cited for upholding this discriminatory policy is the imbalance that granting citizenship will purportedly produce in the population's demographic composition. This imbalance, we are told, is the most serious danger that threatens Jordan as a whole.

In fact, this author is not aware of any accurate statistic regarding the number of Jordanian women who are married to foreigners, with the exception of one study published in 2011 that was based on the Ministry of Interior's statistics. This particular study showed that 69,000 Jordanian women are married to non-Jordanians. The top nationality of these husbands was Egyptian, followed by Syrian and then Palestinian. The remainder hailed from different Arab and foreign nationalities.

#### Discrimination Under Jordan's Citizenship Law

Jordanian laws have generally upheld equal rights for men and women. That is not the case, however, when it comes to the transfer of citizenship to the children. In addition to violating the right of Jordanian women married to non-Jordanian men, the law discriminates between a Jordanian woman's husband, and the wife of a Jordanian man. According to Article 8 of the Citizenship Law, and conditional on approval of the interior minister, a Jordanian man has the right to pass on his citizenship to his wife three years after marriage if she holds an Arab citizenship, and five years if she holds a non-Arab one.

The question that presents itself is: How constitutional is this law?

Paragraph 1, Article 6 of the Jordanian Constitution of 1952 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".

It is not a secret that Paragraph 1, Article 6 of the Constitution has stirred controversy in its interpretation about whether it includes Jordanian men and women, or men only. However, the word "Jordanians" refers to both genders without discrimination between them, and therefore, there is no discrimination between males and females in this respect. Any other interpretation would contradict legal logic. Otherwise, we would consider the public rights and duties that are stated in the Constitution to be restricted to Jordanian men only, and not women.

Furthermore, interpreting the law as referring to both men and women was adopted by Jordan at the international level. The periodic report, which was submitted to the Committee on the Elimination of Discrimination against Women (CEDAW) stated that "the Jordanian approach towards empowering Jordanian women to practice their rights and perform their duties is compatible with the principles of the Jordanian Constitution, which acknowledged, in Article 6, full equality among all the citizens in rights, duties, and equal opportunities. This approach also positively tipped the balance in favor of women by stipulating the need for specifying conditions regarding the work of women and juveniles".

The Jordanian National Charter also stipulated that Jordanians, men and women alike, are equal before the law, with no discrimination between them in duties and rights. The initiative of "We Are All Jordan" of 2006 emphasized the need to adhere to Jordan's commitments to international charters and conventions related to women. [2] In the same context, Jordan explained in its periodic report submitted to the UN Commission on Human Rights in 2009, that "in accordance with what was mentioned in Article 2 of the International Covenant on Civil and Political Rights regarding guaranteeing rights for all individuals without discrimination, the



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Jordanian Constitution emphasized in Article 6 that Jordanians are equal before the law, with no discrimination among them in rights and duties, though they may differ in ethnicity, language, or religion. This article cannot be maligned for failing to mention gender as one of these standards. The constitutional text is general and includes males and females".[3]

#### Complications Resulting From Discrimination

Some people may argue that such discrimination bears no significant consequences. The children may lead a normal life under their father's nationality. However, the issue at hand is about granting women equal rights to men. Citizenship is only passed on through the man, and the woman is not considered trustworthy enough to choose her partner in life. Additionally, there are many cases where women are compelled to reside with their children in Jordan, either as a result of their husbands' death, or as a result of divorce or other reasons.

The end result is that the children of a Jordanian woman are treated like any other foreigner. They do not benefit from any preferential treatment, and are hence subject to relegation or deportation for violating residency or labor laws.

If a Jordanian woman's children are spared relegation or deportation, they are subjected to discrimination in terms of enjoying basic rights such as moving, leasing, ownership of immovable property, and access to education and health care. These rights are subject to regulations that are issued according to various laws that discriminate on the basis of citizenship. For example, tuition fees at government universities differ based on citizenship. Different conditions also apply for non-citizens when it comes to owning immovable assets or obtaining a driver's license.

Should the husband and children of a Jordanian woman violate these regulations, they are placed in a precarious position of foreigners subject to deportation. That is a clear violation of the principle of family unity, as stipulated by the Constitution in Paragraph 4, Article 6, in addition to the two international conventions duly ratified.

The UN Convention on the Rights of the Child expressed its deep concern regarding discrimination suffered by the children of Jordanian women who are married to non-Jordanians, in a manner which contradicts the Constitution and international obligations placed on Jordan.[4]

#### Proposed Solutions

In 2012, the Jordanian government pledged before international commissions to remove the major obstacles preventing those who fall under this category from enjoying some basic economic and social rights, such as the right to education, health care, and residency.[5] These pledges, however, did not materialize.

In February of 2013, a newly-formed coalition of activists and non-governmental organizations demanded the articulation of the principle of gender equality in the Constitution, and the alleviation of all forms of legal discrimination on this basis.

This coalition was subject to severe criticism, and was accused of providing a free service to Israel by advocating the granting of Jordanian citizenship to Palestinians and establishing an alternative homeland in Jordan. The coalition was also accused of trying to change the demography of the country by increasing the number of Jordanians of Palestinian origin. The coalition's activity however did cause some stirring in the Jordanian lower house of parliament. In June of 2013, ten lower house

representatives prepared a draft law demanding that the children of a Jordanian woman be granted civil rights. There was no follow up, however, to this initiative.

In November of 2013, Jordan was subjected to the periodic review before the UN Human Rights Council. Discrimination between Jordanian men and women in the Citizenship Law had its fair share of recommendations from the member countries in the Human Rights Council, particularly the European ones. However, Jordan's representatives categorically rejected these recommendations.

One month after rejecting the periodic review recommendations, Jordanian Prime Minister Abdullah al-Nsour agreed to grant civil but not political rights to children of Jordanian women married to non-Jordanians, according to an anonymous source.

The PM's reported action, while not fully satisfactory, can alleviate many injustices befalling those suffering discrimination. It is a practical solution that can be implemented in a reasonable period of time and without amending laws. Rather, it requires the amendment of regulations and instructions issued in accordance with various laws relating to foreigners in general. Such amendments should exempt the children of Jordanian women from any restrictions, permissions, or permits to practice their rights relating to education, health care, work, ownership, and to obtaining a drivers license.

As for the Residency and Foreigners' Affairs Law, the children of Jordanian women may be exempt from being subjected to its provisions for humanitarian reasons through a decision by the interior minister. This is in accordance with the provisions of Article 29/H of the Residency and Foreigners Affairs Law. However, given that the government floated this proposal in 2012 without following up on it, the will to implement it is likely missing today as well.

Nonetheless, these positive steps will not eliminate the fact that the law continues to demean Jordanian women by failing to treat them as free-willed individuals. It is worth recalling in this regard the repeated statement by the former minister of women affairs, Nadia Alul, regarding this issue in 2012. Alul's proposed solution was to raise awareness among Jordanian women of the ramifications resulting from marrying a non-Jordanian. Should women understand these ramifications, Alul argued, they may change their minds, according to her, given that the issue is a political one concerning the resettlement of Palestinians. Such logic represents, obviously, the practice of demeaning women who continue to be treated as minors and unaware of the consequences of their actions.

This article is an edited translation from Arabic.

#### References

[1] Jordan's periodic report to the Committee on the Elimination of Discrimination against Women, CEDAW/C/JOR/5, dated September 24, 2010, at paragraph 121.

[2] Jordan's periodic report to the Committee on the Elimination of Discrimination against Women, CEDAW/C/JOR/5, September 24, 2010, at paragraph 7.

[3] Jordan's periodic report to the Human Rights Committee, CCPR/C/JOR/330, dated March 2009, at paragraph 8.

[4] Consideration of Reports Submitted by States Parties, Concluding Observations: Jordan, CRC/C/JOR/CO/3, 29 September 2006, at paragraph 29.

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