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For Equality in the Muslim Family

Musawah Overview Table on Muslim Family Laws and Practices: Jordan

**66th CEDAW Session
Geneva, Switzerland
February 2017**

Musawah

No. 4, Lorong 11/8E, 46200 Petaling Jaya

Selangor, Malaysia

Tel: +603 7960 5121

Fax: +603 7960 8737

Email: musawah@musawah.org

Website: <http://www.musawah.org>

JORDAN
OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES
Submitted by Musawah, the global movement for equality and justice in the Muslim Family
to the 66th CEDAW Session, February 2017

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognize marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and the family codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p>	<p>Article 6(i) of the Jordanian Constitution states that Jordanians shall be equal before the law and that there shall be no discrimination between them in rights and duties on grounds of race, language, or religion.¹ Gender equality is not mentioned.</p> <p>Article 6(v) of the Constitution provides that the law protects motherhood, childhood and the elderly and cares for youth and the disabled and protects them from offense and exploitation.²</p> <p>The Jordanian Personal Status Law is the main legislation that governs matters relating to marriage and family relations of Muslims in Jordan. In cases where a particular matter of personal status for Muslims is not addressed specifically in the law, generally the rules of Hanafi jurisprudence (<i>fiqh</i>) would apply.³</p>		<p>Jordan made reservations to Article 9(2) and Articles 16(1)(c), (d) and (g) of CEDAW.¹⁰</p> <p>The Government of Jordan explained to the CEDAW Committee in its 2006 report that under Jordanian law, marriage is not based on equality of rights and duties for husband and wife, but on reciprocity of such rights and duties. As such, “the concept of equality between spouses cannot be made to fit into the existing legal system.”¹¹</p> <p>In its 2015 report to the CEDAW Committee, the Government of Jordan stated that given the current decline in support for women’s</p>		<p>In 2016, Jordan ranked 134 out of 144 countries on the World Economic Forum’s Global Gender Gap Index.¹³</p> <p>Since Muslims and Christians are governed by distinct personal status laws and there is no concept of civil marriage in Jordan, Christian women who marry Muslim men often find it difficult to exercise some rights, such as obtaining a divorce.¹⁴</p>

¹ Constitution of the Hashemite Kingdom of Jordan, art. 6(i), http://www.constitutionnet.org/files/2011_constitution_-_jordan_english_final.pdf

² Constitution of the Hashemite Kingdom of Jordan, art. 6(v), http://www.constitutionnet.org/files/2011_constitution_-_jordan_english_final.pdf

³ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan”, 10 March 2006, para. 243, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p><u>Applicable CEDAW Provision</u> Article 16(1)(c) General Recommendation 21</p>	<p>The Personal Status Law does not address the differences between Muslim sects, nor does it provide for specific rulings that would apply to different minority sects such as Alawites and Shi'a. Such diversity within the Muslim community in Jordan is relatively new to Jordan due to the influx of refugees from countries such as Iraq, Syria, Sudan, and Yemen.⁴ Christians are governed by their own ecclesiastical courts in matters of personal status.⁵</p> <p>The Personal Status Law does not guarantee equality of rights and duties between the husband and wife in marriage.⁶ The equality guarantee under Article 6 of the Constitution does not apply to Muslim personal status matters. Article 103(ii) of the Constitution provides that where the parties are Muslim, matters of personal status fall within the</p>		<p>rights in many states in the Middle East and North Africa, including in Jordan, "the issue of lifting reservations has to be dealt with very sensitively and gradually" and "in a manner that balances the promotion of women's human rights with the obligation to reject whatever contradicts the provisions of Islamic <i>Shari'ah</i>."¹²</p>		
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¹⁰ "United Nations Treaty Collection: Convention on Elimination of Discrimination Against Women", https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹¹ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan", 10 March 2006, para. 248, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹³ World Economic Forum, "Global Gender Gap Index 2016", Table 3, pp. 10-11 http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf

¹⁴ Information obtained from Jordanian advocate, February, 2017. It is also relevant to note that under art. 28(b) of Personal Status Law No. 36 of 2010, Muslim women are not allowed to marry non-Muslims, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁴ Information obtained from Jordanian advocate, February 2017

⁵ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan", 10 March 2006, para. 243, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan", 10 March 2006, para. 248, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>exclusive jurisdiction of the <i>Shari'ah</i> Courts.⁷</p> <p>The Personal Status Law provides for certain reciprocal rights, including kind treatment, mutual respect, attending to each other's physical needs, and caring for one another and for the interests of the family.⁸ Specifically, it requires the wife to obey her husband and provides that a husband's duty of financial maintenance is conditional upon the wife's duty to move to the husband's marital home, not leave it without permission or valid excuse, and not prevent the husband from entering the home.⁹</p>				
<p>Minimum and equal age of marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Is</i></p>	<p>The minimum age for marriage is 18 for men and women, as per Article 10 of the Personal Status Law. However, a judge may permit girls and boys as young as 15 to marry if it is deemed to be within their interest.¹⁵</p> <p>A judge may not permit the mar-</p>	<p>When considering whether to allow a girl under the age of 18 to get married, the income of the prospective husband is often the main determining factor considered</p>	<p>The Government of Jordan in its 2015 report to the CEDAW Committee laid out specific measures to prevent child and forced marriage among Syrian refugees. These include setting up a <i>Shari'ah</i></p>	<p>The judge confirms the age of both parties at the time of contracting the marriage; in addition, marriage registration requires that both parties present proof of their identity (which includes age) for verification.²¹</p>	<p>According to a 2012 statistical report by the Supreme Judge's Department, 12.6% of marriages registered with the <i>Shari'ah</i> courts involve girls under the age of 18.²²</p> <p>According to UNICEF's</p>

¹² Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 108, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁷ Constitution of the Hashemite Kingdom of Jordan, art. 103(ii), http://www.constitutionnet.org/files/2011_constitution_-_jordan_english_final.pdf. See also arts. 105 and 106

⁸ Personal Status Law No. 36 of 2010, art. 77, <http://www.farralawyer.com/viewTopic.php?topicId=153>. See also Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan", 10 March 2006, para. 248, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁹ Personal Status Law No. 36 of 2010, arts. 60-62, 78 <http://www.farralawyer.com/viewTopic.php?topicId=153>

¹⁵ Personal Status Law No. 36 of 2010, art. 10, <http://www.farralawyer.com/viewTopic.php?topicId=153>

<p><i>there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) General Recommendation 21</p>	<p>riage of boys and girls under the age of 15.¹⁶ However, in extremely rare cases (such as pregnancy), a judge may authorize the marriage of boys and girls below the age of 15, in which case, the registration of the marriage is put on hold till the girl turns 15.¹⁷</p> <p>Article 279 of the Penal Code criminalizes violating any of the provisions of the Personal Status Law with respect to contracting a marriage; a prison penalty that ranges between 1-6 months applies to the marriage officer as well as parties to the marriage.¹⁸</p>	<p>by the judge.¹⁹</p>	<p>court in the Zaatari refugee camp and the opening of an office of the Mafraq <i>Shari'ah</i> Court in the camp to document marriage contracts in order to confirm marriage and relationship and avoid exploitation of women.²⁰</p>	<p>State of the World's Children 2016 report, 8% of girls in Jordan are married by the age of 18.²³</p> <p>Recent reports indicate that Jordanians are getting married at a later age due to the increasing cost of marriage and the stagnant job market.²⁴</p> <p>It is reported that early marriage among the Syrian refugee community in Jordan is becoming increasingly common,²⁵ with reports indicating that:</p> <ul style="list-style-type: none"> • There are instances of Syrian refugee girls contracted into
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²¹ "Supreme Judge Department", <http://www.sjd.gov.jo>; "Civil Status Department Marriage Registration Guidelines", <http://www.cspd.gov.jo/SubDefault.aspx?PagelD=186&MenuId=120>

²² Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 110, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁶ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁷ UNICEF, "A Study on Early Marriage in Jordan 2014", p. 6, https://www.unicef.org/jordan/UNICEFJordan_EarlyMarriageStudy2014-E_COPY_.pdf

¹⁸ Penal Code No. 16 of 1960 (as amended), art. 279, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹⁹ Information obtained from Jordanian advocate, February 2017

²⁰ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 13, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²³ "Child marriages around the world: Jordan", *Girls Not Brides*, <http://www.girlsnotbrides.org/child-marriage/jordan/>

²⁴ Nadine Ajaka, "Waiting longer to marry in Jordan", *Al Jazeera*, 2 May 2014, <http://www.aljazeera.com/news/middleeast/2014/02/waiting-longer-marry-jordan-201421972546802626.html>

²⁵ Rana F. Sweis, "In Jordan, ever younger Syrian brides", *New York Times*, 13 September 2014, http://www.nytimes.com/2014/09/14/world/middleeast/in-jordan-ever-younger-syrian-brides.html?_r=0

					<p>marriages by their parents, who worry about sexual harassment or poverty in the refugee camps,²⁶</p> <ul style="list-style-type: none"> • 48% of Syrian refugee girls who marry before 18 marry a man who is at least 10 years older;²⁷ • Many Syrian girls living in refugee camps get married even before they turn 15,²⁸ and as such, these marriages are not being registered in the Jordanian <i>Shari'ah</i> Courts,²⁹ • Some men manage to marry Syrian girls who are younger than 15 by crossing the border into Syria with the girl and her
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²⁶ Save the Children, "Too young to wed: The growing problem of child marriage among Syrian girls in Jordan", 2014, p. 4, https://www.savethechildren.org.uk/sites/default/files/images/Too_Young_to_Wed.pdf

²⁷ Mark Anderson, "Child marriage soars among Syrian refugees in Jordan", *The Guardian*, 16 July 2014, <https://www.theguardian.com/global-development/2014/jul/16/child-marriage-syria-refugees-jordan>

²⁸ Mark Anderson, "Child Marriage soars among Syrian refugees in Jordan", *The Guardian*, 16 July 2014, <https://www.theguardian.com/global-development/2014/jul/16/child-marriage-syria-refugees-jordan>; Mohammad Ghazal, "Child Marriage on the Rise among Syrian Refugees", *The Jordan Times*, 11 June 2016, <http://www.jordantimes.com/news/local/child-marriage-rise-among-syrian-refugees>

²⁹ UNICEF, "A Study on Early Marriage in Jordan 2014", pp. 6 & 31, https://www.unicef.org/jordan/UNICEFJordan_EarlyMarriageStudy2014-E_COPY_.pdf

					guardian and getting married in Syria. ³⁰
<p>Women’s consent to marriage / Forced marriage</p> <p><i>Is a marriage valid without the woman’s consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is it mandatory to register a marriage? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women’s rights or otherwise?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) General Recommendation 21</p>	<p>The prospective bride and groom must both consent to the marriage.³¹</p> <p>Article 36 of the Personal Status Law provides that the registration of a marriage contract is mandatory and failure to register is penalized.³²</p>		<p>The Government of Jordan explained to the CEDAW Committee in its 2006 report that “a forced marriage is deemed to be what the <i>Shari’ah</i> terms <i>fāsīd</i> (literally “defective”, “voidable”).” As such, the marriage contract “is null and void so long as the consent of the parties has not been obtained, but if it is obtained, the contract becomes valid. If the woman persists in refusing to give her consent, the contract is invalidated.”³³</p>	<p>If a girl is being forced into a marriage, she has the right to speak up and inform the judge hearing her case of her refusal to enter into the marriage.³⁴ Marriage registration is required and the procedure for registration of a marriage is available on the official website of the Jordanian e-Government.³⁵</p> <p>Non-registration of the marriage contract does not invalidate the marriage, as long as the conditions of a valid marriage as outlined in the law are met.³⁶</p> <p>However, non-registration of the marriage will affect the right of the married</p>	<p>Information on the ground suggests that Syrian refugees who have failed to register their marriages risk grave consequences, including inability to obtain identification cards or access basic services.³⁹</p>

³⁰ Information obtained from Jordanian advocate, February 2017

³¹ Personal Status Law No. 36 of 2010, arts. 6 and 7, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>.

³² Personal Status Law No. 36 of 2010, art. 36, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

³³ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Combined Third and Fourth Reports of Jordan”, 10 March 2006, para. 247, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³⁴ Information obtained from Jordanian advocate, February 2017

³⁵ Official Website of the Jordanian e-Government: <http://www.jordan.gov.jo/wps/portal/>

³⁶ Personal Status Law No. 36 of 2010, arts. 6-29, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

³⁹ Securing Status: Syrian Refugees and the Documentation of Legal Status, Identity, and Family Relationship in Jordan, November 2016, <https://www.nrc.no/globalassets/pdf/reports/securing-status.pdf>

				<p>couple and their children to access social services, such as healthcare and education. In such instances, it is possible to obtain a declaration from the <i>Shari'ah</i> court in a "<i>Ithbat zawaj</i>" (proof of marriage) and "<i>ithbat nasab</i>" (proof of lineage) case in order to be able to access such services.³⁷</p> <p>There is a standardized marriage contract.³⁸</p>	
<p>Women's capacity to enter into marriage</p> <p><i>Is consent of a guardian (wali) required? Can the woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marriage rights prior to marriage and can</i></p>	<p>Regardless of her age, a woman who is getting married for the first time requires the consent of a guardian (<i>wali</i>) to enter into marriage. The guardian must be a Muslim and a male relative of the prospective bride (e.g. grandfather, father, brother, uncle, etc.). A judge can act as guardian in the absence of male relatives.⁴⁰</p>	<p>When considering whether to override a guardian's objection to the marriage, the judge will consider the financial capacity of the prospective groom.⁴⁷</p> <p>If the prospective</p>	<p>The Government of Jordan in its 2015 report to the CEDAW Committee stated that a number of official and non-official bodies are engaged in raising awareness of a woman's ability to stipulate conditions in the marriage contract.⁴⁹</p>		<p>In practice, women often do not include provisions expanding their marital rights in the marriage contract, either due to lack of awareness of their rights or for fear of family backlash or societal pressure. Cultural practices continue to play a role in pre-</p>

³⁷ Procedures and requirements of proof of marriage and lineage cases are available on Jordan's e-Government website, http://www.jordan.gov.jo/wps/portal/!ut/p/b1/04_SjzQzNjQ1NDE1NtKP0I_KSyzLTE8syczPS8wB8aPM4sMsvS3CvN0NDQzMPc0NPJ1cPYyDQvyMLQJN9YMTi_RzoxwVAQQIacA/

³⁸ See "e-Standard Marriage Contract", *Supreme Judge Department Website*, <http://www.sigov.jo/Pages/viewpage.aspx?pageID=204>

⁴⁰ Personal Status Law No. 36 of 2010, arts. 14-17, <http://www.farrailawyer.com/viewTopic.php?topicId=153>

⁴⁷ Information obtained from Jordanian advocate, February 2017

⁴⁹ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p><i>these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) General Recommendation 21</p>	<p>If the guardian opposes the marriage without a legitimate reason, the prospective bride is entitled to file a case called '<i>Adel Al Wali</i>', whereby the judge may authorize the marriage, provided the judge determines that the intended bride's guardian's refusal is unreasonable and she is above 15.⁴¹</p> <p>Consent of a guardian is not required if the prospective bride has been previously married and is over 18.⁴²</p> <p>Article 11 of the Personal Status Law prohibits a woman to marry a man who is more than 20 years her senior without permission of a judge and upon the judge's verification of the bride's consent and free choice.⁴³</p> <p>Pursuant to Article 37 of the Personal Status Law, both parties may add stipulated conditions to the marriage contract so long as they do not contradict <i>Shari'ah</i>. Conditions included in the contract are considered enforceable. If a husband violates a condition, the wife is entitled to file for divorce; if a wife violates a condition, the husband may file for divorce and the wife loses</p>	<p>groom is more than 20 years the bride's senior, a judge would require a show of consent and free choice of the prospective bride, in addition to verifying the groom's financial capacity.⁴⁸</p>			<p>venting women from exercising this right.⁵⁰</p>
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⁴¹ Personal Status Law No. 36 of 2010, art. 18, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁴² Personal Status Law No. 36 of 2010, art. 19, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁴³ Personal Status Law No. 36 of 2010, art. 11, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	<p>her financial rights (e.g. maintenance).⁴⁴</p> <p>Article 37 of the Personal Status Law outlines specific examples of binding conditions that a wife may include in the marriage contract. These include conditions preventing the husband from taking additional wives, ensuring her right to work, ensuring that she lives in a particular place, refraining from moving to another country, or delegating to her the right to divorce herself unilaterally.⁴⁵ Examples of impermissible conditions include drinking alcohol or refraining from cohabitation or consummation of marriage.⁴⁶</p>				
<p>Polygamous marriages</p> <p><i>Does the law or marriage contract prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Are temporary</i></p>	<p>A Muslim man may marry up to four wives.</p> <p>Article 13(a) of the Personal Status Law provides that before a polygamous marriage is contracted, a judge must ascertain that the man can afford paying a dower (<i>mahr</i>) and is capable of financially supporting all those</p>		<p>The Jordan Ministry of <i>Awqaf</i>, Islamic Affairs and Holy Affairs refused the request of the Arab Women Organization of Jordan to insert a clause into the Personal Status Law of 2010 to outlaw polygamy in Jordan and</p>	<p>A woman may stipulate in the marriage contract that her husband cannot take another wife. If the husband breaches this term of the marriage contract, the woman has the right to petition for divorce.⁵⁷</p>	<p>The 2012 Population and Family Health Survey indicates that 5% of marriages in Jordan are polygamous.⁵⁹</p> <p>There are reports of campaigns being launched by certain</p>

⁴⁸ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵⁰ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>;

⁴⁴ Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>. See also Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴⁵ Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁴⁶ Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

<p><i>marriages recognized? Is it necessary to register a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 5(a) General Recommendation 21</p>	<p>for whom he is responsible, and clarify to the prospective wife that the man is already married.⁵¹</p> <p>Article 13(b) of the Personal Status Law requires the court to inform previous wife or wives of the new marriage, after having contracted it.⁵²</p> <p>Article 79 of the Personal Status Law requires that a husband treat all wives equally, such as in financial maintenance and cohabitation.⁵³</p> <p>Article 75 prohibits a husband from housing multiple wives in the same home without their consent.⁵⁴</p> <p>Article 31 of the Personal Status Law provides that a temporary marriage contract is considered invalid (<i>fasid</i>). Article 34 provides that if such a marriage was consummated, it shall have effect with respect to <i>mahr</i>, <i>idda</i> waiting period, and legitimacy of the children, but it shall not lead</p>		<p>claimed the request was “unimportant.”⁵⁶</p>	<p>To ensure that the man is capable of financially supporting all those for whom he is responsible, a judge has to check whether the man has an income of over 500 Jordanian dinars (approx. US \$706) a month, which is a fairly low sum for supporting multiple wives.⁵⁸</p>	<p>civil society groups in Jordan to encourage polygamous marriages, claiming polygamy would solve the “problem” of unmarried women over 30.⁶⁰</p>
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⁵⁷ Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁵⁹ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 113, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵¹ Personal Status Law No. 36 of 2010, art. 13 (a), <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁵² Personal Status Law No. 36 of 2010, art. 13 (b), <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁵³ Personal Status Law No. 36 of 2010, art. 79, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁵⁴ Personal Status Law No. 36 of 2010, art. 76, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	to any inheritance or financial maintenance rights. ⁵⁵				
<p>Divorce rights</p> <p><i>Is there equal right to divorce? Can the husband divorce at will and without grounds? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce prohibited? If unilateral divorce is not prohibited, what is the procedure e.g. are witnesses required or does the spouse need to go to court? Is the right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c)</p>	<p>Jordanian law provides for three different mechanisms for divorce: 1) unilateral repudiation by the husband (<i>talaq</i>); 2) judicial divorce; and 3) <i>khul'</i>.</p> <p>The Personal Status Law provides for unilateral repudiation by the husband, which can be performed verbally or in writing without any reason and does not require court permission.⁶¹</p> <p>A wife or husband may apply for judicial divorce, but the wife has to provide a valid reason for seeking divorce, while the husband does not.⁶²</p> <p>Valid reasons for seeking a judicial divorce by a wife include a husband's contagious or venereal disease or impotence (must be proven by a medical certification), failure to provide maintenance or shelter, non-payment of the dower (<i>mahr</i>), imprisonment, and prolonged absence.</p>	x		<p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>), thus permitting her to pronounce <i>talaq</i> upon herself (<i>talaq-i-tafwid</i>) without resorting to court. The wife's financial rights following a divorce remains preserved.⁷⁰</p> <p>A wife's demand for the <i>isma</i> (delegation of the right to divorce) may be entered as a condition in the marriage contract.⁷¹</p> <p>The registration of divorce is mandatory, and a standard procedure must be followed.⁷²</p>	

⁵⁶ David E. Miller, "Jordan launches campaign to advance polygamy", *The Jerusalem Post*, 9 July 2011, <http://www.jpost.com/Middle-East/Jordanian-launches-campaign-to-advance-polygamy>

⁵⁸ Information obtained from Jordanian lawyer, February 2017

⁶⁰ See for example, "Jam'iya fi al-Urdun li Munasarat Ta'adud al'Zawjat wa Al-Qada'a ala Al'Unusa," *Al-Arabiya*, 3 July 2011, <http://www.alarabiya.net/articles/2011/07/03/155878.html>; Jon Jensen, "Jordan: Polygamy on the rise?", *Public Radio International*, 10 July 2011, <http://www.pri.org/stories/2011-07-10/jordan-polygamy-rise>

⁵⁵ Personal Status Law No. 36 of 2010, arts. 31 and 34, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁶¹ Personal Status Law No. 36 of 2010, arts. 80-84, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁶² Personal Status Law No. 36 of 2010, arts.115-144, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	<p>In addition, strife and discord – including domestic abuse – are grounds for divorce.⁶³</p> <p>In the case of a divorce petition based on strife and discord, the judge must attempt to reconcile the couple; if the reconciliation fails, the judge must appoint two arbitrators (one from the husband’s family and one from the wife’s family) who again shall attempt to reconcile the couple. If reconciliation was not possible, the arbitrators shall rule on the terms of the divorce and any due compensation, which the judge then reviews and ratifies. In such cases, a wife’s testimony is not sufficient to prove harm; she must also have two witnesses.⁶⁴ If the arbitrators fail to reconcile the couple and deem that the wife is in the wrong, a divorce will be granted in exchange for compensation to the husband that is less than the <i>mahr</i>. If the wrongs were committed by the husband, an irrevocable divorce will be granted. If the wrongs are shared, divorce will be granted in exchange for a division of the <i>mahr</i> in proportion to the wrongs of each side.⁶⁵</p>				
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70 Personal Status Law No 36 of 2010, art. 85, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
71 Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
72 Official Website of the Jordanian e-Government: <http://www.jordan.gov.jo/wps/portal/>
63 Personal Status Law No. 36 of 2010, arts.115-144, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
64 Personal Status Law No. 36 of 2010, arts. 126-127, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
65 Personal Status Law No. 36 of 2010, arts. 126, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	<p>The Personal Status Law permits a wife to obtain divorce through <i>khul'</i>, in exchange for a mutually-agreed compensation to be paid to the husband. The consent of both parties is required for a <i>khul'</i> divorce⁶⁶. However, if no agreement is reached, a wife may bring a court case, whereby she declares her inability to remain with her husband and pledges to return her dower (<i>mahr</i>) and renounce all her financial rights. In such a case, the court must order a 30-day reconciliation process, and if it fails, it must then rule for divorce (<i>faskh</i>).⁶⁷</p> <p>In case of a mutually-agreed <i>khul'</i>, <i>iddah</i> maintenance is not considered forfeited unless the <i>khul'</i> agreement clearly states so. In all cases, a husband cannot coerce a mother to renounce custody of her children as part of a <i>khul'</i> compensation.⁶⁸</p> <p>Prior to consummation of marriage, a wife may obtain judicial annulment of a marriage contract, whereby she returns the <i>mahr</i> and any other marriage</p>				
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⁶⁶ Personal Status Law No. 36 of 2010, arts. 104-113, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁶⁷ Personal Status Law No. 36 of 2010, arts.114, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁶⁸ Personal Status Law No. 36 of 2010, arts.109-111, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	gifts or expenses to the husband. ⁶⁹				
<p>Women's financial rights post-divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property during marriage and at its dissolution? Is the woman's role as wife and mother recognized as contribution to acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a 'gift' upon divorce (muta'a)?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h), 15(2) General Recommendations 21, 29</p>	<p>There is a separation of property regime among married couples, whereby a woman has the right of ownership and of disposal over what she owns. A husband has no authority over his wife's property, and a wife does not need her husband's permission to deal with her property.⁷³</p> <p>A divorced woman is entitled to financial maintenance for the waiting period (<i>iddah</i>) following the divorce. The amount may be agreed mutually or awarded by court, and the <i>iddah</i> period may not exceed 1 year.⁷⁴</p> <p>Following a divorce, a man is responsible for the financial maintenance of his children, and if the mother is the custodian, he is obligated to pay her maintenance to cover the expenses of his children, including the cost of their healthcare and education. A daughter is entitled to maintenance until she is married, and a son is entitled to maintenance until he reaches an age where he would be expected to earn a living.⁷⁵</p>			<p>Conditions with respect to division of assets may be entered into the marriage contract by consent of both parties.⁷⁸</p>	<p>If a divorced couple does not reach an agreement on financial maintenance following a divorce, a woman then approaches the <i>Shari'ah</i> court to petition for maintenance for her and the couple's children, if she is the custodian. In such cases, the mother needs to provide evidence of the ex-husband's income, based on which the judge would rule on the amount of financial maintenance. The ex-husband is then required to pay this amount through deposit to the court, and failure to do so could result in his imprisonment. Hence, this mechanism often proves more effective than direct payment of the money to the custodial mothers, due to court supervision.</p>

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Personal Status Law No. 36 of 2010, art. 114, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

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Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", June 25, 2015, ¶107, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

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Personal Status Law No. 36 of 2010, arts. 151-153, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

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Personal Status Law No. 36 of 2010, arts. 1870196, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	<p>In the case of divorce without legitimate cause, a judge can grant compensation to the wife; the amount of compensation shall be between 1 to 3 year's maintenance, taking into account the husband's financial means and may be paid as a lump sum or in installments.⁷⁶</p> <p>Article 321 of the Personal Status Law provides for the establishment of a court-administered financial maintenance fund for women to collect court-ordered maintenance payments.⁷⁷ However, this fund is not yet operational, as the law-mandated regulations have not yet been passed.</p>				<p>However, some men may resort to devious means to reduce their officially-recorded income prior to the court proceedings for the purpose of reducing the amount of maintenance payments.⁷⁹</p> <p>Although activists and lawyers have been advocating for a law of joint matrimonial property that will enable a wife to claim a share in the husband's assets acquired during marriage,⁸⁰ there does not appear to be any serious effort by the Government to bring about a new matrimonial property regime.⁸¹</p> <p>It is rare that the division of assets is included as a condition in the marriage contract, as it is not part of the common cultural practices in society.⁸²</p>
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⁷⁸ Personal Status Law No. 36 of 2010, art. 37, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
⁷⁶ Personal Status Law No. 36 of 2010, arts. 155, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
⁷⁷ Personal Status Law No. 36 of 2010, art. 321, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>
⁷⁹ Information obtained from Jordanian Advocate, February 2017
⁸⁰ Zainah Stetyeh, "The Personal Status Quo", *Jordan Business Magazine*, December 2010, p. 77, <http://www.jordanbusinessmagazine.com/sites/default/files/The%20Personal%20Status%20Quo.pdf>
⁸¹ Information obtained from Jordanian Advocate, February 2017
⁸² Information obtained from Jordanian advocate, February 2017

<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority rights over the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) General Recommendation 21</p>	<p>According to Article 173 of the Personal Status Law, a mother has priority right to custody of her children until they reach the age of 15, at which point the child is given the option to remain with the mother until reaching the age of majority (18). A woman may retain custody longer if the child is sick and requires care.⁸³</p> <p>Visitation rights for non-custodial parents (as well as paternal grandfather if the father is deceased) are guaranteed according to Article 181 of the Personal Status Law.⁸⁴</p> <p>If a mother remarries, she loses custody, if the husband is not a close blood relative of the child (<i>mahram</i>).⁸⁵</p>				<p>There are indications that in practice, the conditions placed on the mother's priority right to custody of her children often enable the father to maintain a great deal of influence on the rearing of the children even though he may not have legal custody. Typically, a father would exercise this influence through his general authority as guardian of the child (see below). At times, the father is able to assume legal custody against the wishes of the mother when she is unable or unwilling to meet the conditions set by law for her to maintain her right to custody of the children.⁸⁶</p>
<p>Guardianship of Children</p> <p><i>Is there equal right to guardianship? If no who has priority rights over the guardianship of the child? Is guardianship decided</i></p>	<p>There is no equal right to guardianship. The Personal Status Law specifies that a father is the legal guardian of his children, followed by the paternal grandfather, then court.⁸⁷</p>		<p>Although Article 62 of the Penal Code provides that surgical operations and medical professional treatments can be carried</p>		<p>There are reported cases of cases of Christian women whose husbands convert to Islam before divorcing them for the</p>

⁸³ Personal Status Law No. 36 of 2010, art. 173, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁸⁴ Personal Status Law No. 36 of 2010, art. 181, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁸⁵ Personal Status Law, No. 36 of 2010, art. 171, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁸⁶ "International Parental Child Abduction", U.S. Embassy in Jordan, <https://jo.usembassy.gov/u-s-citizen-services/international-parental-child-abduction/>

⁸⁷ Personal Status Law No. 36 of 2010, art. 223, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

<p><i>based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) General Recommendation 21</p>	<p>However, the law also allows the court to deprive a father or grandfather of guardianship, if they are proven to be incompetent. Thus, a mother can obtain guardianship in exceptional cases if she can prove before a court that the father (or grandfather) is incompetent to assume guardianship of his children.⁸⁸</p> <p>A minor's father, grandfather, or court may appoint a trustee to manage the financial affairs of the minor. The trustee must have a specific mandate and may be male or female.⁸⁹</p> <p>Article 184 of the Personal Status Law states that the guardian is responsible for overseeing the affairs of the minor and for selecting the type and place of the minor's education, provided that it is in the same area of residence as the custodian (mother). It states further that the guardian may not change the residence of the minor away from the custodian except by her permission or for a legitimate interest of the minor. The custodian and the guardian share responsibility for the minor's dis-</p>		<p>out on a minor with the consent of his/her legal representative,⁹² only the father is considered as the legal representative. Hence, if the consent of the father is difficult to obtain, the mother has to go through lengthy and complex procedures at the <i>Shari'ah</i> court to obtain approval for the medical intervention.⁹³</p>	<p>specific purpose of obtaining guardianship of their children and side-stepping church courts' jurisdiction⁹⁴.</p> <p>Several issues of conflict arise when mothers with custodial rights over their children do not have guardianship rights to make major decisions over their children's well-being. This includes critical decisions on consent to surgery and medical treatment, registration and transfer of schools and consent to travel.</p> <p>The father also has authority over the child's right to education, and his permission may be needed in order for the child to be registered for school or to transfer schools. However, even if the father refuses permission, the mother's decision can be enforced</p>
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⁸⁸ Personal Status Law No. 36 of 2010, art. 228, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁸⁹ Personal Status Law No. 36 of 2010, arts. 230-233, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	<p>cipline and educational guidance.⁹⁰</p> <p>A mother who has custody of her children may not travel or take residence outside Jordan with the children without the consent of the guardian.⁹¹</p>				<p>by the court if she shows that it was in the best interest of the child. This, however, often entails a lengthy court process.</p>
<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilization in the law, procedure or practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 General Recommendation 21</p>	<p>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life or prevent a significant risk to her health.⁹⁵ In all other cases, protecting the right to life of the fetus is prioritized by the law.⁹⁶</p> <p>In order to obtain a legal abortion for medical reasons, the woman needs to produce a medical report drafted by two separate doctors affirming that the abortion is necessary to save her life or protect her health.⁹⁷</p> <p>Article 321 of the Penal Code provides for a prison penalty of 6 months to 3 years if a woman</p>		<p>The Government of Jordan in its 2015 report to the CEDAW Committee stated that there is an ongoing awareness campaign that includes disseminating information about family planning and the spacing of children. Vouchers for family planning services are given for free to women who may receive contraceptives, after she has received counselling.¹⁰¹ However, only married women have access to free birth control pills and health services.¹⁰²</p>		<p>The spacing of children in Jordan is associated with higher rates of infant and child mortality. The majority of births are reported to be still at intervals shorter than the 3 years that the World Health Organization (WHO) recommends, as nearly one-third of births are less than 2 years apart. 58% of all births in Jordan are less than 3 years apart.¹⁰⁴</p> <p>Jordan's fertility rate has reportedly levelled off since 2002. Cur-</p>

⁹² Penal Code No. 16 of 1960 (as amended), art. 62, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

⁹³ Information obtained from Jordanian advocate, February 2017

⁹⁴ Aaron Magid, "Looking for a better divorce settlement, Jordanian Christian men convert to Islam", *Al Monitor*, 21 December 2015, <http://www.al-monitor.com/pulse/originals/2015/12/jordan-law-christians-convert-muslims-women-divorce.html>

⁹⁰ Personal Status Law No. 36 of 2010, art. 184, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁹¹ Personal Status Law No. 36 of 2010, art. 176, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

⁹⁵ Public Health Law No. 47 of 2008, art. 12, <https://www.mindbank.info/item/544>

⁹⁶ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 89, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁹⁷ Public Health Law No. 47 of 2008, art. 12, <https://www.mindbank.info/item/544>

	<p>performs an abortion on herself or consents to another person performing an abortion on her in violation of the law.⁹⁸ This punishment is mitigated if the woman performs the abortion in order to protect her honor (e.g. if a pregnancy that was a result of rape). A man who performs an abortion on a female that is his relative up to the third degree also receives a reduced sentence if her performs the abortion to save her honor.⁹⁹</p> <p>Third parties who perform abortion on a woman outside the bounds of the law also face criminal penalties, with a higher penalty when the abortion is carried out without the consent of the woman.¹⁰⁰</p>		<p>The Government of Jordan also stated that allowing abortions for women who have been raped or in the first few days of the pregnancy should be considered.¹⁰³</p>		<p>rently, a woman gives birth to an average of 3.8 children during her lifetime. In 2009, the Jordan Population and Family Health Survey found that 42% of married women were using modern contraceptive methods, and an additional 17% of married women were using traditional methods such as withdrawal and periodic abstinence.¹⁰⁵</p> <p>Information on the ground suggests that due to the strict laws on abortion, sometimes women find they have no choice but to resort to illicit means with the support of a physician to conduct an abortion. For example, a physician</p>
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¹⁰¹ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 80, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁰² Information obtained from Jordanian advocate, February 2017

¹⁰⁴ Higher Population Council, "The Impact of Healthy Birth Spacing in Jordan", 2013, p. 37, http://www.healthpolicyproject.com/pubs/196_BookletJordanBirthSpacingWeb.pdf

⁹⁸ Penal Code, No. 16 of 1960 (as amended), art. 321, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

⁹⁹ Penal Code No. 16 of 1960 (as amended), art. 324, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹⁰⁰ Penal Code No. 16 of 1960 (as amended), arts. 322-323 and 325 <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹⁰³ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 89, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁰⁵ Health Policy Initiative, "Impact of Changing Contraceptive Method Mix on Jordan's Total Fertility Rate," 2010, http://www.healthpolicyinitiative.com/Publications/Documents/1270_1_Method_Mix_English_Sep_2010.pdf

					may certify that the fetus was found dead during a routine check-up, and that an operation was required to remove the dead fetus. ¹⁰⁶
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her own behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) General Recommendation 21</p>	<p>According to Article 61 of the Personal Status Law, a wife needs the consent of her husband to work outside the home. If a wife pursues employment without her husband's consent, she loses the right to financial maintenance (<i>nafaqa</i>).¹⁰⁷</p> <p>According to the Personal Status Law, a wife owes cohabitation and obedience "within the bounds of what is permissible" to her husband.¹⁰⁸</p> <p>The wife has an obligation to follow her husband to wherever he decides to go, provided he ensures her safety. If the wife refuses to move with her husband, she is considered disobedient (<i>nashez</i>) and loses the right to financial maintenance.¹⁰⁹ Arguably, Article 9 of the Constitution, which provides that no Jordanian may be compelled to reside somewhere "except in the</p>		<p>The Government of Jordan in its 2015 report to the CEDAW Committee stated that the right to choose place of residence is guaranteed by the Constitution.¹¹¹</p>	<p>If the marriage contract explicitly states that the woman is a working professional or that she retains the right to work after marriage, the husband cannot legally stop the wife from working.¹¹²</p> <p>The 2003 (interim) passport regulations allow a woman to obtain a passport without the consent of her husband or male guardian.¹¹³</p> <p>Married women in Jordan retain their maiden names.¹¹⁴</p>	<p>Jordanian women's economic participation is relatively low. The employment rate for women aged 15-24 is 9% (while the corresponding percentage for men is 41%). For women aged 15 years and above, the labor force participation rate for women is 23%.¹¹⁵</p> <p>In practice, it is not common for women to include provisions on her right to work in the marriage contract¹¹⁶, typically due to societal pressure and common cultural practices un-supportive of such stipulations in the contract.¹¹⁷</p>

¹⁰⁶ Information obtained from Jordanian advocate, February 2017.

¹⁰⁷ Personal Status Law No. 36 of 2010, art. 61, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

¹⁰⁸ Personal Status Law No. 36 of 2010, arts. 60, 78, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

¹⁰⁹ Personal Status Law No. 36 of 2010, art. 62, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

	circumstances prescribed by law,” allows for this inequality to persist. ¹¹⁰				
<p>Inheritance rights</p> <p><i>Are men and women in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(h), 15(2) General Recommendations 21 & 29</p>	<p>Legislation on inheritance is derived from <i>Shari’ah</i>, which does not provide for equal divisions of assets for men and women.¹¹⁸</p> <p>Chapter 9 of the Personal Status Law outlines the inheritance shares. In many instances, for example in the case of siblings, a woman is entitled to half the share of a man.¹¹⁹</p>			<p>A person may choose to write a will. However, Article 274 of the Personal Status Law provides that a will may be written only with respect to one-third of the estate; beyond the one-third, shares of existing beneficiaries may not be altered except by consent of all beneficiaries following the person’s death.¹²⁰</p>	<p>There are reported instances of women being coerced or shamed into relinquishing their inheritance rights for various reasons including:</p> <ul style="list-style-type: none"> • Apparent weak monitoring by the <i>Shari’ah</i> courts, coupled with the lack of punitive enforcement measures;¹²³ • Lack of awareness

¹¹¹ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 105, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹² Personal Status Law No. 36 of 2010, art. 37, <http://www.farrailawyer.com/viewTopic.php?topicId=153>. See also Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹³ “Jordan Gender Equality Profile”, UNICEF, <http://www.unicef.org/gender/files/Jordan-Gender-Eqaulity-Profile-2011.pdf>

¹¹⁴ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 114, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹⁵ UNICEF, “Jordan Gender Equality Profile”, <https://www.unicef.org/gender/files/Jordan-Gender-Eqaulity-Profile-2011.pdf>

¹¹⁶ Information obtained from Jordanian advocate.

¹¹⁷ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 109, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹⁰ Constitution of the Hashemite Kingdom of Jordan, art. IX, http://www.constitutionnet.org/files/2011_constitution_-_jordan_english_final.pdf

¹¹⁸ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 114, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹⁹ Personal Status Law No. 36 of 2010, art. 310, <http://www.farrailawyer.com/viewTopic.php?topicId=153>

¹²⁰ Non-beneficiaries may receive a bequest of no more than one-third of the total estate. Personal Status Law No. 36 of 2010, art. 274, <http://www.farrailawyer.com/viewTopic.php?topicId=153>

¹²³ Abdulrahman Abu Sneh, “Disinheritance of women legalized?” *Arab Reporters for Investigative Journalism*, 24 May 2014, <http://en.arij.net/report/disinheritance-of-women-legalized/>

				<p>Beneficiaries can agree to equal shares or to any distribution scheme amongst themselves following the distribution of the estate (where, for example, they may give a greater share to females).¹²¹ However, this is rare and does not commonly take place in practice.¹²²</p>	<p>among women of their inheritance rights, thus enabling families to misuse their authority to force females to give up these rights.¹²⁴</p> <ul style="list-style-type: none"> • Prevalence of discriminatory practices, which prevent rural women from inheriting or acquiring ownership of land and other property;¹²⁵ • Some fathers registering all immovable properties in the names of their sons to prevent the daughters from owning land, especially if they are married.¹²⁶ <p>Activists continue to advocate for legislation that would give women equal inheritance rights.¹²⁷</p>
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¹²¹ “Fatwa No. 547, Grand Mufti Abdulkarim Al-Khasawne, Dar al-Ifta”, Jordan, 16 March 2010, <http://aliftaa.jo/Question.aspx?QuestionId=547#.WE4dpMdpIFl>

¹²² Information obtained from Jordanian advocate, February 2017.

¹²⁴ Abdulrahman Abu Sneineh, “Disinheritance of women legalized?” *Arab Reporters for Investigative Journalism*, 24 May 2014, <http://en.arij.net/report/disinheritance-of-women-legalized/>

¹²⁵ Information obtained from Jordanian advocate, February 2017.

¹²⁶ Information obtained from Jordanian advocate, February 2017.

¹²⁷ Laila Azzeh, “Study proposes equal inheritance rights for women”, *Jordan Times*, 3 September 2016, <http://jordantimes.com/news/local/study-proposes-equal-inheritance-rights-women>

<p>Violence against women in the family</p> <p><i>Are there laws and practices that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault, mental and other forms of violence that affects a women's mental health, which are perpetuated by traditional attitudes? Is there specific legislation that recognizes domestic violence as a crime? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 2, 5, 11, 12 and 16 General Recommendations 12, 19, 21</p>	<p>Jordan's Family Protection Law No. 6 of 2008 lays out guidelines for procedures in domestic violence cases for medical practitioners and police officers. It also includes penalties for perpetrators, including detention of perpetrators for up to 24 hours, and protection orders, but does not criminalize domestic violence.¹²⁸</p> <p>The Penal Code criminalizes verbal and physical assault upon another person and prescribes prison penalties; this covers domestic violence, with the exception of discipline of children in a manner that does not harm them and is consistent with the "prevalent tradition."¹²⁹</p> <p>The Penal Code does not specifically criminalize marital rape.¹³⁰</p> <p>The Penal Code also does not criminalize all forms of sexual harassment. Though the commission of 'indecent acts' is criminalized by the Penal Code, the Code does not provide any definition for the term "indecent act."¹³¹</p>		<p>The Government of Jordan in its 2015 report informed the CEDAW Committee that work is being carried out on the drafting of a bill relating to protection of domestic violence.¹³⁴</p> <p>The Jordanian government also stated that, in relation to marital rape, the Penal Code punishes physical, sexual, and psychological harm done by a husband to his wife. Forced or violent intercourse is sufficient grounds for a wife to seek a divorce and/or compensation for the harm.¹³⁵</p> <p>In 2007, Jordan established the "Family Reconciliation Centre" for victims of domestic abuse. The Government also supports the "Family Reconciliation Home," which accepts all women and children</p>	<p>Every <i>Shari'ah</i> court has a Family Reconciliation and Mediation Office, which seeks to resolve family disputes by amicable means, without litigation. The Office also offers family counselling and raises awareness of marital rights and duties.¹³⁷</p> <p>Domestic abuse is considered a valid reason for a woman to initiate divorce, but her testimony alone is insufficient to establish abuse; rather, she must present 2 witnesses.¹³⁸</p>	<p>It is reported that in practice:</p> <ul style="list-style-type: none"> • Police is not required to enforce the 24-hour detention of suspected abusers;¹³⁹ • If the suspected abuser apologizes to the victim and they agree to reconcile, which may often happen due to socio-economic pressures, the suspected abuser can avoid incarceration and go home;¹⁴⁰ • A suspected abuser may marry his victim to avoid punishment. The provision is believed to prevent shame.¹⁴¹ <p>Women who suffer from abuse are often referred to shelters by the family protection unit, which effectively</p>
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¹²⁸ Family Protection Law No. 6 of 2008, <http://corpus.learningpartnership.org/family-protection-law-no-6-of-jordan-2008>

¹²⁹ Penal Code No. 16 of 1960 (as amended), arts. 188, 358, 333-334, 62, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹³⁰ See Penal Code No. 16 of 1960 (as amended), <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹³¹ Penal Code No. 16 of 1960 (as amended), arts. 296-299, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹³⁴ Committee on Elimination of Discrimination Against Women, "Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan", 25 June 2015, para. 3(b), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	The Penal Code allows for a reduction in penalty when a violent crime is committed in a “fit of fury” resulting from an unlawful or dangerous act on part of the victim. ¹³² This provision is usually used to reduce punishments for “honor killings.” ¹³³		referred to it regardless of the beneficiary’s nationality (in 2014, the home admitted 876 women, 95 of whom were Syrian refugees). ¹³⁶		subject women to incarceration, since they are not allowed to leave the shelters. ¹⁴² Women who seek police protection from potential honor killings are also often effectively placed in administrative detention. ¹⁴³
Nationality rights <i>Does a wife have the right to confer citizenship on foreign born husbands and children? Can the nationality of the adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i>	Under the Jordanian Nationality Law, Jordanian citizenship passes through the father. A Jordanian man can pass his nationality to his foreign wife, provided she meets various conditions. A Jordanian woman cannot confer her nationality to her husband. A Jordanian wom-		Jordan has a reservation on Article 9. In a memorandum submitted by the Ministry of Foreign Affairs, this reservation was affirmed, as the government interpreted that Article 9 conflicted with <i>Shari’ah</i> . ¹⁴⁶		Without access to Jordanian citizenship, the children of Jordanian mothers and foreign fathers are unable to access many social services. This has been reported to create a financial strain on families and contrib-

¹³⁵ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 7, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹³⁷ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, June 25, 2015, para. 10, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹³⁸ Personal Status Law No. 36 of 2010, arts. 126-127, <http://www.farrajlawyer.com/viewTopic.php?topicId=153>

¹³⁹ Kelsey Cherland, “Developments in Personal Status Law: Iraq and Jordan” (Senior thesis, Claremont Mckenna College, 2014), p. 65, http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1926&context=cmc_theses

¹⁴⁰ Kelsey Cherland, “Developments in Personal Status Law: Iraq and Jordan” (Senior thesis, Claremont Mckenna College, 2014), p. 65, http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1926&context=cmc_theses

¹⁴¹ Kelsey Cherland, “Developments in Personal Status Law: Iraq and Jordan” (Senior thesis, Claremont Mckenna College, 2014), p. 65, http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1926&context=cmc_theses

¹³² Penal Code No. 16 of 1960 (as amended), art. 98, <http://www.wipo.int/edocs/lexdocs/laws/ar/jo/jo064ar.pdf>

¹³³ Human Rights Watch, “Honoring the Killers: Justice Denied for Honor Killings in Jordan”, Chap. IV, 2004, https://www.hrw.org/reports/2004/jordan0404/4.htm#_Toc69798568

¹³⁶ UNICEF, “Gender Equality Profile”, <http://www.unicef.org/gender/files/Jordan-Gender-Eqaulity-Profile-2011.pdf>; see also CEDAW Country Report pp. 18-19.

¹⁴² Jo Baker and Elna Sondergaard, “Conditions for Women in Detention in Jordan: Needs, Vulnerabilities and Good Practices”, (Dignity Institute Publication Series on Torture and Organized Violence, Vol. 9, 2015), pp. 24-26. https://dignityinstitute.org/media/2066001/pubseriesno9_wid_jordan.pdf

¹⁴³ Dana Al Emam, “Administration Detention of Women for ‘Protection’ is Illegal, Activists Say”, *The Jordan Times*, 1 November 2016, <http://www.jordantimes.com/news/local/administrative-detention-women-protection-illegal%E2%80%99-activists-say>

<p>Applicable CEDAW Provision Article 9 General Recommendation 21</p>	<p>an married to a foreign husband cannot pass her nationality to her children.¹⁴⁴</p> <p>Jordanian nationality may be granted to a child born in Jordan to a Jordanian mother and to a father whose citizenship is unknown, or one whose paternity has not been legally established.¹⁴⁵</p>		<p>The Government of Jordan in its 2015 report to the CEDAW Committee stated that it is endeavoring to “ease the life of the children of Jordanian women married to foreigners by facilitating residence, exempting them from fines and ensuring their right to work and education.” Children of Jordanian mothers married to non-Jordanian fathers are thus treated as Jordanians with respect to education, health, work, estate, investment and obtaining a driver’s license.¹⁴⁷ For the children to be eligible for the benefits: (i) the Jordanian mother must have lived in Jordan with the children for 5 consecutive years;¹⁴⁸ and (ii) the children should have legal resi-</p>		<p>utes to poverty.¹⁵¹</p> <p>Because they are unable to confer their nationality on their husbands and children, women are viewed as being “punished” for marrying foreigners.¹⁵²</p> <p>Children of Jordanian women married to foreigners cannot obtain public sector/government jobs.¹⁵³</p> <p>Although around 56,000 identity cards were issued to children of Jordanian women married to foreigners, many of them have reportedly been unable to obtain the promised benefits due to lack of follow through by government officials.¹⁵⁴</p>
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¹⁴⁶ Gihane Tabet, “Women in Personal Status Laws: Iraq, Jordan, Lebanon, Palestine, Syria” (SHS Papers in Women Studies/Gender Research, Vol.4, 2005) p. 13, http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SHS/pdf/Women_in_Personal_Status_Laws.pdf

¹⁴⁴ Nationality Law, No. 6 of 1954, as amended, <http://www.refworld.org/docid/3ae6b4ea13.html>

¹⁴⁵ Nationality Law No. 6 of 1954 (as amended) <http://www.refworld.org/docid/3ae6b4ea13.html>

¹⁴⁷ Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 51, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁴⁸ Areej Abuqudairi, “Women Punished for Marrying Non-Jordanians”, *Al-Jazeera*, 20 December 2014, <http://www.aljazeera.com/news/middleeast/2014/12/women-punished-marrying-non-jordanians-20141215121425528481.html>

			<p>dence and not be married.¹⁴⁹</p> <p>A 2013 amendment to the Passports Act allows the Cabinet, on the recommendation of the Minister of the Interior and “in justified humanitarian circumstances”, to issue a Jordanian passport for a fixed period of time to children of Jordanian women married to foreigners.¹⁵⁰</p>	
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¹⁵¹ Elizabeth Whitman, “Jordan’s Second-Class Citizens”, *Boston Review*, 14 October 2013, <https://bostonreview.net/world/whitman-jordan-citizenship>

¹⁵² Areej Abuqudairi, “Women Punished for Marrying Non-Jordanians”, *Al-Jazeera*, 20 December 2014, <http://www.aljazeera.com/news/middleeast/2014/12/women-punished-marrying-non-jordanians-20141215121425528481.html>

¹⁵³ Information obtained from Jordanian advocate,

¹⁵⁴ Human Rights Watch, “Letter to the Prime Minister of Jordan”, 29 November 2016, <https://www.hrw.org/news/2016/11/29/letter-he-dr-hani-al-mulki-human-rights-watch>

¹⁴⁹ Information obtained from Jordanian advocate, February 2017

¹⁵⁰ Passport Law No. 2 of 1969 (as amended in 2013), <http://alrai.com/article/604725.html>. Committee on Elimination of Discrimination Against Women, “Consideration of Reports submitted by State Parties under Article 18 of the Convention: Sixth Periodic Report of Jordan”, 25 June 2015, para. 51, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.