

# THE EXTENT TO WHICH THE ASSOCIATIONS LAW IS COMPATIBLE WITH CONSTITUTIONAL AND INTERNATIONAL STANDARDS

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## ABSTRACT

*The study problem was to demonstrate the conformity of the Associations Law with these international and constitutional standards using scientific and legislative analysis technique based on the analytical descriptive approach.*

*The study finished with numerous findings and recommendations, as it became evident that the law must be continuously modified and revised to ensure compliance with the constitutional and international principles, as well as in a manner that represents the reality of association work in Jordan, Adopting the filing method in registration and reducing the obstacles that associations face in their work, working to strengthen the rule of law and turning to the judiciary to resolve any dispute about the work of associations, forming an independent national body that supervises the organization of the work of associations in which associations are members, and limiting bureaucratic procedures that would limit the organizational capacity of the associations in generally.*

**Keywords:** The right to establish associations, International and Constitutional standards, Human rights, Associations law.

## INTRODUCTION

The right to establish associations is considered a human right of dual importance as it is considered a right of a political nature and has a social, economic and cultural content, In addition to being a complex right, it is an individual right that is proven collectively in practice. The right to establish associations is considered ancient and derives its legitimacy from human civil nature, which rejects isolation. Therefore, collective work is an inherent human nature in the human soul (Shaaban, et al., 2012).

The Jordanian Constitution guarantees the right to establish associations, and a special law has been devoted to the right to establish associations in Jordan since the founding of the Emirate of Transjordan. This law developed over periods of time that accompanied the social, economic, and political situation and the transformations that the Jordanian state went through.

Article 16 of the Constitution is considered the explicit text guaranteeing the right to establish associations, as it clearly and explicitly referred to the right of Jordanians to establish and join associations. Indeed, the constitutional text emphasized the features of the law and its constitutional controls when regulating this right, by limiting the role of the law to monitoring resources and the way Author (Ahmad, et al., 2024).

Figures indicate that the number of associations in Jordan is increasing significantly, especially during the last years of the past decade and the beginning of the new decade. This in itself is a positive indicator of the development of civil society in Jordan and its playing of

additional roles of a charitable, voluntary, developmental and human rights nature (Ahmad, et al., 2023). However, the Law on Associations is still exposed to many aspects of criticism and repeated demands for amendment and development to form a basic pillar for the work of associations in Jordan in a way that achieves the constitutional and international content of the right in establishing associations.

## Research Importance

This research gains its importance through the process of legislative analysis, which will conclude the extent to which the Jordanian Associations Law is compatible with the constitutional and international standards regulating this right, in light of the event and the continuous demand to amend this law, which makes this research a scientific document that constitutes a source and reference for developing the provisions of the law in a comprehensive manner typical.

The importance of this research lies in that it provides an in-depth legislative review of the Associations Law in accordance with the outcomes of the Royal Commission to Modernize the Political System, which included a recommendation on the necessity of reviewing and amending the Associations Law. A committee to review the content of the law, including dealing with best practices in this field.

## Research Problem

Areas of research in clarifying the extent to which experts are legally compatible with the content of the constitutional texts that guarantee the right to choose researchers, as well as the extent to which the law is compatible with these compatibility. Comprehensively, and for the purposes of analysing these problems and the sub-problems associated with them, an example of constitutionalism was created to participate, and then explain when a law occurs with these main and fundamental problems.

## Research Questions

The research will answer many of the main and subsidiary questions that represent the topics of this research through scientific and methodological analysis. These questions are as follows:

- The extent to which association registration procedures are compatible in accordance with the Associations Law with international standards.
- Are the provisions of the law consistent with the constitutional controls stipulated in Article 16 of the Jordanian Constitution?
- Do associations, according to the current legislative framework, have the institutional capacity to carry out their activities without any challenges or obstacles?
- Do associations enjoy all the elements and pillars of legal personality, including administrative and financial independence and independence in carrying out activities according to objectives?
- Do institutional procedures complement each other in the field of supporting and supervising associations without any administrative or bureaucratic obstacles or challenges?
- Is the legislative framework in general consistent with constitutional and international standards ratified by the Jordanian government?

## RESEARCH METHODOLOGY

This research will analyze the right to establish associations in accordance with international and constitutional standards and the practical reality of this right, relying on the descriptive approach and the analytical approach in an attempt to reach recommendations that would benefit and benefit the systemic legal framework of the right at the national level.

### Research Division Plan

The research was divided into three sections: The first section deals with: international standards for the right to establish associations. The second section deals with the content of the right in the Jordanian Constitution, and the third section deals with an analysis of the Associations Law.

### The First Topic

#### *International Standards for the Right to Establish Associations*

The right to establish associations has been emphasized in most international and regional charters, and this indicates the importance that this right has occupied and its role in promoting and protecting human rights. This right has always constituted discussion and controversy at the local, regional and international levels, and legal systems have varied regarding the legislative frameworks regulating it, given Due to the complex nature of the right, and its horizontal and vertical connection to all human rights.

The legal systems in the establishment mechanism varied between registration, filing, licensing, and others, but international standards and established best practices confirm that there is a minimum level of guarantees that must be available to guarantee the enjoyment of this right. Accordingly, international human rights standards at the United Nations level will be addressed in the first requirement, and regional standards in the second requirement, as follows.

#### *The First Requirement: International Standards for the Right to Establish and Join Associations*

International human rights conventions guarantee individuals the right to establish and join associations, and various countries are also obligated to protect this right in their internal legislation. Article 20 of the Universal Declaration of Human Rights stipulates In 1948, it was stipulated that “every person has the right to freedom to participate in peaceful meetings and associations, and no one may be forced to belong to an association.” Article 22 of the International Covenant also stipulates on civil and political rights of 1966 stipulate that: “(1) Every individual has the right to freedom of association with others, including the right to establish and join unions in order to protect his interests. (2) No restrictions may be placed on the exercise of this right except those stipulated by law.” They constitute necessary measures in a democratic society to maintain national security, public safety, public order, protect public health or public morals, or protect the rights and freedoms of others. This article does not prevent members of the armed forces and police officers from being subject to legal restrictions on the exercise of this law Right. There is no provision in this article that allows States parties to the 1948 International Labor Organization Convention on Freedom of Association And to protect

the right to organize unions, take legislative measures that would, or apply the law in a way that would violate the guarantees stipulated in that agreement.”

With reference to Convention No. 87 regarding freedom of association and the protection of the right to organize a union, specifically Articles 2, 3, 4, 7 and 8 thereof, even if the framework of its organization is limited to trade unions, we find that it included a set of guarantees and standards that constitute the basis for measuring the right to establish associations based on them. Here lies the reason for the referral between the International Covenant and the Convention. The right to “declare the right and responsibility of individuals, groups and institutions of society to promote the defense of human rights and fundamental freedoms” was also affirmed Article 5 referred to this by stating: “For the purpose of promoting and protecting human rights and fundamental freedoms, every person has the right, individually and in association with others, at the national and international levels: (a) to meet or assemble peacefully; (b) to form organizations or associations.” Or associations or groups, joining and participating in them, (c) contacting non-governmental organizations or intergovernmental organizations.” On the other hand, Article 8 of the International Covenant indicated The Convention on Economic, Social and Cultural Rights (1966) calls for States to guarantee the freedom to form trade unions through “(a) the right of every person to form trade unions in association with others and to join the trade union of his choice, subject only to the rules of the organization concerned, for the purpose of promoting his economic interests.” The exercise of this right may not be subject to any restrictions other than those stipulated by law and which constitute necessary measures, in a democratic society, to maintain national security, public order, or to protect the rights and freedoms of others (Visser, J., 2019).

In 2010, the Human Rights Council adopted resolution 15/21, which established the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and association for a period of three years. The right to form associations is not limited to respecting the right of individuals to join them only, but also includes the right not to join them as well, as no one may be forced to join an association as stated in the text of the Universal Declaration of Human Rights.

Although the texts of international human rights conventions do not mention this issue, the oversight committees on the aforementioned conventions have acknowledged that individuals have the right not to join associations, basing this on the fact that the explicitly recognized right to join and the right not to join are two aspects of the same idea (Al-Mousa, et al., 2009)

### ***The Second Requirement: Regional Standards***

This right is affirmed by regional human rights conventions (Al-Tarawneh, et al., 2017). Almost no regional human rights agreement stipulates the right to establish and join associations, as Article 11 of the European Convention on Human Rights stipulates of 1950 stipulates that: “(1) Every human being has the right to freedom of peaceful assembly and freedom to form associations with others, including the right to participate in trade unions to protect his interests”.

As stipulated in Article 10 of the African Charter on Peoples’ and Human Rights of 1981 stipulates that: “(1) Every person has the right to freely form associations with others, provided that he adheres to the provisions specified by the law. (2) No person may be forced to join any association, provided that this does not conflict with the commitment to the principle of solidarity stipulated in this charter.

Likewise, Article 24 of the Arab Charter on Human Rights of 2004, it stipulates that: “Every citizen has the right to: (5) Freedom to form and join associations with others. (7) The exercise of these rights may not be restricted by any restrictions other than those imposed in accordance with the law and necessary in a society that respects freedoms and human rights.” “To maintain national security, public order, public safety, public health, or public morals, or to protect the rights and freedoms of others” (Bassiouni, et al., 2003).

Likewise, Article 16 of the American Convention on Human Rights states Every person has the right to freedom of association with others to achieve ideological, religious, political, economic, labor, social, sporting or other goals.” Article 24 states: “Every citizen has the right to freedom of association with others and to join them.”

Based on the above, we find that there are a number of international and regional texts that guarantee the right to establish and join associations, but the precise understanding of the content of these texts lies in the explanatory works, such as final reports and recommendations of states, communications, complaints, decisions, and relevant declarations, from which it is all inferred that The main standards that must be met in the national context regulating the right It lies in the following

- The freedom to establish and join associations through filing, notification, or any similar system that guarantees these standards, while ensuring that the association is not dissolved administratively, and that the judicial authority is the decision-maker.
- The right of each association to freely set its statute and work mechanisms by its administrative and public body, and its right to manage its affairs without interference from any party.
- The right of the general body of each association to elect its administrative body, and for the administration to respect the results of the elections, and not to have the right to object to the membership of any person in the administrative body of the association except through a lawsuit filed before the competent judiciary.
- The administration has the right to regulate the work of associations. If it finds a violation of the law, it will be dealt with by resorting to the judiciary. To this end, it has the right to adopt all means and tools of good governance and that governance tools do not become oversight procedures and restrict the work of associations.
- The right of every association to obtain internal and external funding, provided that the association announces the sources and amounts of funding it receives, and the means of using them in accordance with a clear governance, transparency and disclosure approach, and that it commits to publishing its annual budgets and depositing them with the relevant department after their approval by its general assembly.
- The right of every association to merge, unite, or form alliances.
- It is not permissible to dissolve any association except with the approval of its general assembly or by a judicial decision, and it is not permissible to stop any association from working except by a judicial decision.

## **The Second Topic**

### ***The Legislative Framework Regulating Associations Nationally***

National legislation regulating the right to establish associations came successively at the national level and passed through stages according to the nature of the stage socially, politically and economically. Accordingly, the stages of historical development that the Association Law has gone through will be reviewed in the first requirement, and in the second requirement, the constitutional framework for the right to establish associations will be discussed and analyzed

### ***The First Requirement: Legislative Development of the Association Law***

The Law of Associations has gone through many stages of development. The first of these laws was; The Ottoman Associations Law issued in 1909, which remained in effect until 1936. Perhaps one of the most important features of this law was that it adopted the deposit method to register the association.

Then the temporary association law was issued of 1936, followed by the issuance of the Associations Law No. 105 of 1936, and remained in effect until the issuance of the Charitable Societies Law No. 36 of 1953, followed by the issuance of the Charitable Societies Law No. 12 of 1956, followed by the issuance of the Social Associations and Bodies Law No. 7 of 1965, followed by the Social Associations and Bodies Law No. 33 of 1966 and its amendments, followed by the issuance of the amended Temporary Charitable Societies and Social Organizations Law of 1976, which remained in effect until 2008 when the Associations Law No. 51 of 2008 and its amendments was issued, which is still in effect .

However, the work of associations in the middle and end of the last decade was dominated by the charitable and relief nature in general, through providing aid and subsidies, and playing charitable roles.

In coordination with relevant bodies and agencies, the Ministry of Social Development remained the body supervising the work of associations. However, since the end of the last decade, major transformations have occurred in the mechanisms, methods and forms of work of associations, as development institutions and institutions specialized in human rights, women and children, and the rights of persons with disabilities have emerged. Refugees and study centers, and the forms and methods of registration varied, including associations, non-profit and cooperative companies, and endowment institutions.

### ***The Second Requirement: The Constitutional Content of the Right to Establish Associations***

The Jordanian Constitution, in Article 16, guaranteed the right of Jordanians to form and join associations when it stated: “(1) Jordanians have the right to meet within the limits of the law. (2) Jordanians have the right to form associations, unions, and political parties, provided that their goals are legitimate and their means are sound and effective.” Systems that do not violate the provisions of the Constitution. (3) The law regulates the method of forming associations, unions, and political parties and monitoring their resources.

It is clear that Article 16 established the main rules and controls for the right to establish and join associations, as it came with an absolute text stating that the right to establish associations is guaranteed to all Jordanians and this applies to political parties and unions. It should be noted that the word “unions” was added recently in 2011 after constitutional amendments.

The constitutional text specified the three substantive controls that apply to this right, which laws and subsidiary legislation must revolve within the orbit of this constitutional text. In all cases, these controls are considered limitations that the laws regulating this right must adhere to, and these controls are:

***First: The Legitimacy of the Purpose:***

Meaning that the goal that the association, union, or party seeks to achieve is legitimate and does not violate the laws and the constitution. Legitimacy here extends to the legislative system and not to the social, religious, cultural, or other unclear or unclear principles specified and therefore the legitimacy of the goal coupled with not violating national legislation in this regard.

***Second: Peaceful Means:***

That is, the means used by associations to achieve their goals must be peaceful and also do not violate the provisions of national legislation. It is not permissible, for example, for associations to use weapons in their work, or to justify killing people or violating their rights. Accordingly, the peacefulness of the means is one of the constitutional guarantees that associations must abide by, and national legislation must also implement this rule.

***Third: Internal Regulations that do not Violate the Constitution:***

That the internal systems of the associations do not violate the Constitution, and here it must be emphasized that this text is clear that the referral here is linked to not violating the provisions of the Constitution and not the laws. This is a main guarantee that gives us an indication of the form of the law regulating the work of the associations, and it must be executive for this officer, not be restrictive.

The constitutional text also specified the general features of the laws that regulate the process of establishing associations, parties, and unions. These are also controls that the laws may not violate, otherwise they will be described as unconstitutional.

These controls are: Minus controls

***Fourth: Organizing the Method of Writing:***

The law must determine the method of forming associations, that is, how they are established and established. This control is not absolute, as it is specific in that the law stipulates the method of formation, but the nature of this method, its method, conditions, details of formation, and everything related to it was not stipulated in the constitution and was not interfered with. The issue here becomes of great importance in following the method that would ensure facilitation of the authoring process and is not characterized by complexity and bureaucracy, and here the interpretive dimensions must be taken into account in terms of what is included in international agreements, experiences and best practices, which - that is, treaties - follow the constitution in order in this regard

***Fifth: Resource Monitoring:***

The law must include a clear legislative method and approach for monitoring resources, and here the understanding of this constitutional officer turns to the issue of the legality and purpose of the resource or not, and the process of Oversight stops at this point in accordance with

this constitutional rule, and should not be expanded upon or deviate from the content of the constitutional rule in subsidiary legislation, policies or practices.

### **The Third Topic**

#### ***Analysis of Association Law***

In this study, the Law of Associations No. 51 of 2008 will be analyzed in accordance with the latest amendments and a statement of the challenges and problems that would prevent the harmonization of the texts of this law with the normative content of the text of Article 16 of the Constitution and the international and regional covenants ratified by the Jordanian court. The first requirement will address the discussion. About the institutional frameworks and legal personality of associations and the extent of their sponsorship, and in the second requirement, modern texts related to the association's ability to work.

#### ***The first requirement: Institutional Frameworks and Legal Personality***

The Associations Law includes many texts that challenge the institutions and ministries concerned with coordinating the work of associations and following up on their affairs, as well as many texts that talk about the forms of the association and constitute the legal personality of the association.

Accordingly, these texts will be analyzed in three sections:

#### ***Section One: Institutional Frameworks Concerned with the Work of Associations***

The Associations Law considered the Ministry of Social Development to be the institutional incubator for the work of associations in Jordan. This is a continuation of an old approach in the history of the work of associations in Jordan. However, an institutional entity was created within the Ministry under the name of the Associations Register, and the law stipulated the mechanism for forming this register and its jurisdiction.

According to the law, the registry consists of a council under the law of ten members headed by the Minister of Social Development, six members representing government ministries and four members representing associations who are appointed by a decision of the Council of Ministers based on the recommendation of the Minister for a period of two years, subject to renewal.

It is noted that the formation of the Council increased official representation at the expense of associations, in addition to the fact that the law left the door open to adding any member representing any other ministry without mentioning the addition of members from the association sector. The law also dealt with associations on the basis of charitable and voluntary relief work without Details of the mechanism for selecting association representatives, whether geographically or sectorally, according to specialization and objectives.

The law also specifies the tasks and powers of the Council as “registering the association, determining the ministry responsible for supervising the association, in addition to evaluating the performance of associations and their activities in coordination with the relevant ministries, issuing an annual report on the conditions of associations in the Kingdom, and issuing the necessary plans and programs to improve the conditions of associations and help them achieve



Its goals and objectives, managing the Associations Support Fund and following up on all its affairs .

The law also stipulates the establishment of a fund called the “Associations Support Fund” that aims to: “Support associations and enjoy a legal personality and financial and administrative independence. It may own movable and immovable funds and invest them in the manner it deems appropriate, and the Public Prosecutor (General Attorney) represents it in judicial procedures.” Among the observations that respond to this is that the legislator granted the Fund financial and administrative independence and did not grant this status to the registry of associations. It would have been better for this status to be granted to the registry, which supervises the management of the Fund, since the registry is considered the national reference for the work of associations, which would leave administrative complications (Zawaideh, F., et al., 2013). It is highly institutionalized in the mechanisms of joint action and coordination of references, and leads to more bureaucracy (Fraihat, B. A. M., et al., 2013). The Registry Council is also concerned with examining requests for registration of associations and determining the ministry responsible for supervising the association according to a special system issued for this purpose (Alfawaerah, N. H., et al., 2013). Therefore, there is another body that supervises the association, in addition to (Ghaith, A., et al., 2018).

The Ministry of Social Development and the Register of Associations is the competent ministry, as the data indicate the diversity and multiplicity of these ministries and authorities according to Table 1.

<b>The competent ministry</b>	<b>The number</b>
Ministry of Interior	1260
The Ministry of Planning and International Cooperation	1
Ministry of Culture	751
The Ministry of Environment	174
Ministry of Political and Parliamentary Affairs	212
The Ministry of Tourism and Antiquities	86
Ministry of Social Development	3910
Ministry of Health	129
Ministry Of Agriculture	82
Ministry of Endowments, Islamic Affairs and Sanctities	27
Ministry of Justice	6
Ministry of Industry, Trade and Supply	29
Ministry of Digital Economy and Entrepreneurship	10
Ministry of Water and Irrigation	4
The total	6681

## ***Section Two: The Legal Personality of the Association***

The general rule is that the tool for creating legal persons occurs once the procedures specified by the law are completed, and after that it is not permissible to infringe or diminish the legal personality, otherwise it becomes an entity affiliated with the entity creating it, and this is far from the philosophy and purpose of legislation.

However, by examining the Associations Law, we find that it includes many texts that would affect the institutional entity of the association, and thus prejudice the legal personality, which is represented by financial and administrative independence and independence in exercising activities that lead to achieving the goals for which the association was registered.

Although the law includes a text indicating that the association enjoys a legal personality once the registration procedures are completed and that the association enjoys independence to achieve the goals and objectives stated in its statute and the law, the legislator diminished this personality in many texts (Daoud, M. K., et al., 2023).

In many matters related to the management of the association, the law stipulates that its work be suspended on approvals either from the registry, the minister, or the relevant ministry, which increases bureaucracy and the multiplicity of references, including what is stated in "Article 14, Paragraph A", which is a condition that is considered a restriction on the freedom of associations to Managing its affairs, especially the issue of notifying the Minister in writing of the date of the General Assembly meeting within two weeks, the location of the meeting, and the agenda of the meeting. Otherwise, the meeting is considered illegal (Maheswari, K., et al., 2023).

This constitutes a restriction on the freedom of the association and its right to hold its meetings and manage its affairs. Subjecting the meeting to the approval of the minister is a clear violation of the pillars of this personality (Fraihat, B. A. M., et al., 2023). The legislator should have considered this as one of the annual requirements that the association must maintain and provide the relevant ministry with a copy of these minutes and decisions (Al-Qudah, et al., 2013).

The law even went further by stipulating in Article 14 C/2 that the amendment to the bylaws shall not become effective except after the Council approves this amendment, within sixty days from the date of its submission to the registrar. The amendment shall be considered effective if no decision to the contrary is issued, and it would be more appropriate to It is sufficient to deposit the minutes of the meeting and the amendment that occurred to the by-laws .

The law also includes many requirements that the association must fulfil, which are considered restrictions if the association does not do them (Bani Atta, 2023). It is considered a violation of the provisions of the law and may be subject to penalties. The law stipulates that the association submit to the ministry: "the association's work plan on an annual basis, and the annual achievements report." The association's annual budget is duly audited by a chartered accountant, and the names of its affiliated members (Shehadeh, M. A., et al., 2023). The association must also disclose in its annual report any donation or funding it has obtained, and obtain approval for any funding obtained from a non-Jordanian person in accordance with the approved procedures (Mohasin, H. J., et al., 2023). The legislator did not regulate it according to the law or refer it to the system (Mustafa, J. A., et al., 2023)." One of the aspects of prejudice to the association's legal personality is that the legislator did not grant associations the right to banking secrecy, which is considered a fundamental right for legal persons (Yahiya Ahmad Bani Ahmad, et al., 2023). The original is that such requirements should be within a legislative framework based on the rational government's approach to the work of associations to increase

their institutional capabilities and ensure their continuity in serving community development issues, not It should be merely legislative restrictions coupled with penalties that would affect the will of the majority of citizens to move towards charitable, volunteer, and development work (Ni, L, et al., 2023).

### ***Section Three: The independence of Associations in Managing their Affairs***

The Law of Associations did not include the necessary independence for the Register of Associations, as it is the national body concerned with following up on the affairs of associations (Fraihat, B. A. M., et al., 2023). According to the law, the Registrar is appointed by a decision of the Prime Minister, and the general principle is to explicitly stipulate the independence of the Register and consider it an independent civil society commission, and the law also makes many references to the executive systems are fundamental issues related to the formation of associations (Alnsour, I., et al., 2023). Although the constitutional standard - as previously mentioned - limits the role of the law to regulatory affairs, and therefore the issue of referring substantive affairs to regulations and instructions raises a question about the constitutionality of such subsidiary legislation , as it would empty the law (Daud, M. K., et al., 2023) the ministry responsible for each association. From its purpose, these legislations become delegating systems for executive systems.

Among these are:

- “The Board of Directors of the Registry has established - with the approval of the Council of Ministers - special instructions that include the basis for determining the ministry responsible for each association” (Peng Yixuan, 2023).
- “Issuing the necessary instructions to organize the work of the registry and coordinating the relationship between the registrar and the competent ministries in accordance with the provisions of this law and the regulations issued pursuant to it” (Allaham, M., et al., 2024).
- “The provisions that must be included in the association’s bylaws are determined in accordance with a special bylaw issued for this purpose”.
- “The aspects of spending and supporting associations from the Fund’s funds are determined based on principles and conditions determined by the Council of Ministers in accordance with instructions issued for this purpose, and the Council undertakes the disbursement in accordance with those instructions” (Wang, C., et al., 2023).
- Forming one or more unions of associations for the purposes of coordinating their efforts in providing their services and carrying out their activities in accordance with the provisions of this law and the regulations and instructions issued pursuant to it. A special system shall be issued specifying the types of these unions and the terms and conditions of their registration and all other regulatory matters related to it.
- “The Council may issue any necessary instructions to enable associations and federations to adjust their situations in accordance with the provisions of this law and the regulations issued pursuant to it”.
- The Council of Ministers shall issue the necessary regulations to implement the provisions of this law, including a system for private associations specifying their objectives, the provisions resulting from the withdrawal or death of one of their members, the provisions for their dissolution, and the transfer of their funds upon dissolution.
- “Both the Council and the competent minister may issue the necessary instructions to implement the provisions of this law and the regulations issued pursuant to it”.

### ***The Second Requirement: Legal Texts Related to the Association’s Institutional Path***

The Associations Law includes many texts that regulate the ability of associations to work, mechanisms for carrying out activities, provisions for dissolution, and penalties that relate to the

institutional path of the association (S. S. Kumari, et al., 2023). I will discuss this in two sections (Cheng Congbin, et al., 2023):

### ***Section One: Registration Method***

It is clear that the Law of Associations adopted the licensing method by setting out many procedures that must be followed by those wishing to register the association, and did not adopt the deposit or notification method as one of the modern methods that are compatible with international standards regulating the right to establish associations, as the matter requires the founders to follow many procedures. Procedures starting from obtaining an application for registration either to the Ministry or one of the branches of the Ministry of Social Development, accompanied by a copy of the bylaws and a certificate signed by the founders proving the authorization of an authorized representative to submit the application and sign the bylaws, and the need for the bylaws to be consistent with the special conditions issued by the system specifying the provisions of the bylaws.

The law also indicates several time periods that it takes to register an association, as the application is submitted to the Social Development Directorate in the governorate, which must send it to the registrar within seven days. The registrar then verifies the application and its attachments and notifies the founders of the deficiencies within 15 days, and the deficiencies must be completed. Within six months, otherwise it will be considered invalid. The Council will then issue its decision regarding registration within sixty days from the date of receipt of the application. The Registrar must complete the procedures for registering the association within 15 days after the Council's decision. The Council will issue its decision regarding the registration application within sixty days from the date the Registrar receives the application. who fulfills all conditions, and the registrar must complete the necessary procedures to register the association in the register within fifteen days from the date of approval for its registration.

Accordingly, this method based on licensing constitutes a restriction on the right of individuals to exercise this right, and perhaps among the methods most consistent with international standards is the deposit method or what is expressed as dangers, which is consistent with international standards of the right (Ahmad, A. Y. B., 2019).

### ***Section Two: The Association's Right to Carry out Its Activities***

As previously indicated, the association has the right to carry out activities to achieve the goals it aims to achieve, and this necessarily requires that all activities be legitimate in principle unless they conflict with the law. Any activity that violates the laws and legislation is not permissible for the association to carry out, and this was emphasized in the constitution is that the means used by associations are peaceful (William, P., et al., 2024). Accordingly, the Constitution established the main objective criterion in clarifying the nature of the means by being peaceful.

The Law of Associations did not include explicit provisions regarding any restrictions on the right of associations to carry out their activities. Rather, the legislator merely indicated that the association should carry out its activities in accordance with

However, these practical practices indicate that associations are required to adopt administrative and organizational procedures for the purpose of enabling them to hold their activities. This is due to the application of the Public Meetings Law, which obligates institutional

entities, in other than excepted cases, to provide notification for this purpose, as Article (14) indicates. That the association carries out its activities in accordance with the provisions of the bylaws.

The intersection of the Law of Associations with the Law of Public Meetings is highlighted here, as the national reality reveals that the Law of Public Meetings requires procedures from associations for the purpose of enabling them to carry out their activities, and despite the text of the Public Meetings Law referring to the notice, the practical reality confirms that associations cannot The activity is carried out only after it is approved by the Administrative Governor . In fact, the private sector, such as hotels, is asked to agree to complete the procedures for holding the activity with the association, as the Public Meetings Law stipulates that notification be provided.

Procedures for holding the activity with the association, as the Public Meetings Law stipulates that notification of holding a public meeting or organizing a march must be submitted to the administrative governor at least forty-eight hours before the time appointed for holding either of them, and the notice must include the names of the organizers of the general meeting or march, their addresses, signatures, and the purpose of it. The meeting or march and the place and time of any of them, and every public meeting held or march organized in violation of the provisions of this law and the regulations issued pursuant to it is considered an illegal act.

There are also a number of obstacles that prevent and limit the freedom of associations to manage various events and activities, including granting the minister the authority to appoint a temporary administrative body.

For an association that serves as its elected management body, with the law not directly and explicitly determining the times for appointing such bodies, as once the association violates the law, regulations, or statute, the minister can appoint such a body without following any progression or granting the judiciary such authority.

The law also grants the Board of Directors of the Register of Associations, based on the recommendation of the competent minister, the right to dissolve the association without resorting to the judiciary, and limits the right to appeal the dissolution decision before the administrative judiciary, which is considered financially costly to the voluntary and charitable sector.

The law also included obstacles to associations in obtaining the financial resources necessary to carry out their activities and achieve their goals, as it required associations that wish to obtain any donation, grant, or funding, whatever its form, from non-Jordanian persons to submit a request to the Council of Ministers to obtain its approval. The council was given the right to reject funding without giving reasons.

### ***Section Three: Solution and Punishments***

The Law of Associations includes many legal provisions that are considered aggravating in relation to the nature of the work of associations, the voluntary sector and civil society in Jordan. It is noted that the law allows the public administration to dissolve the association without resorting to the judiciary, while recognizing that individuals or those in charge of the association have the right to appeal to the competent judiciary. However, the dissolution process must be based on a judicial decision to ensure impartiality, integrity, and guarantees of a fair trial. In addition, this constitutes one of the international and constitutional standards. The general principle is that if the administration, based on reasonable reasons, wants to dissolve the association, it must resort to the judiciary to issue a decision to do so.

The law allows the Council - based on the recommendation of the competent minister - to issue a decision to dissolve the association in cases including: if it is not possible to elect a management body for the association, if the association retains or uses a donation or funding from non-Jordanian persons, or if the association commits the aforementioned violation for a second time. Warn it about it, or if two-thirds of the members of the General Assembly agree to the dissolution in an extraordinary meeting.

The law also included penalties to be imposed on natural persons who are members of the association in the event of committing some violations. The general principle is that penalties with a significant dimension are imposed.

Institutional or related to the association's decisions on the legal person and not on natural persons, since the penalties mentioned in Article (26) are of a financial nature (of the type of fine) , the original is that they fall on the legal entity of the association, unless it is proven that fraud, fraud, or dishonesty is proven. These are crimes for which a person can be prosecuted in his personal capacity.

The law also includes double penalties for people convicted under the law, as it was pointed out that the person who is convicted in accordance with Article (26) is prevented from being a member of the management of any association, and this is in fact a double penalty and violates the principle of legality by not violating the act with more than one penalty.

## RESULTS

1. The non-compatibility of the Associations Law with constitutional and international standards in this regard, which confirms the necessity of reviewing this law so that it forms a pillar of charitable and voluntary work and is consistent with international and constitutional standards.
2. The association registration process is characterized by bureaucracy, requiring many procedures and time periods, which may discourage individuals from continuing the registration process.
3. The law included many procedures that would constitute obstacles and restrictions on the association's right to carry out its activities.
4. The law included added restrictions on the association's right to obtain support and donations and a lack of clarity on the national procedures for governing such financial matters.
5. Duplication of administrative and institutional references, as there is more than one body and institution concerned with following up on associations, which would create duplication of work and do not lead to unifying a national approach to dealing with associations.
6. The law includes many violations that can be described as severe, and some of them are imposed on individuals in their personal capacity and not on the legal personality of the association, which would violate the principle of legality and not impose more than one penalty for the same act.

## CONCLUSION

It is clear from the above that the Jordanian Constitution explicitly guarantees the right to establish and join associations in Article (16), which includes the main constitutional controls that constitute the principles of drafting the legislation that guarantees this right in terms of: the peacefulness of the means, the legitimacy of the goal, and the control of resources, and this is what was emphasized. In the international and regional conventions that Jordan has ratified, and by analyzing the Association Law in comparison with those standards.

## RECOMMENDATIONS

Through the above, we can reach many recommendations that would improve the legislative environment regulating the right to establish associations in Jordan in a way that is consistent with international standards ratified by the Jordanian government, as well as the contents of the Jordanian Constitution, as follows:

1. Work to establish an independent body to supervise associations, whose mission will be to supervise the association sector with all its goals and objectives and seek to support the sector.
2. Development and charitable projects in a participatory manner, taking into account the representation of associations in the management of this body.
3. Adopting a deposit system as an alternative to the licensing and registration system, which is characterized by bureaucracy and violates the content of constitutional texts and international standards.
4. Explicitly stipulating that the decisions of the general bodies of associations shall be effective from the date they are taken, and a copy of these decisions shall be deposited with the supervising authority, and not requiring prior approval of the decisions of the general bodies.
5. Excluding association activities from prior approvals, and unifying legal and administrative references in all activities held by associations.
6. Failure to grant the Minister the powers to appoint administrative bodies for associations for indefinite periods, within the powers of the Association Registry Council and by decision of the judicial authority.
7. Do not resort to dissolving associations directly. The original principle is for the administration to resort to requesting dissolution from the judicial authority and not for this to be done by the associations due to the financial costs that the voluntary sector may incur from doing so.
8. Not requiring approval from the Council of Ministers for the support that the association receives, and that this authority be granted to the Associations Registry Council, and that the reason for rejection be justified.
9. The law should include a package of tax, financial and service exemptions for associations due to the voluntary aspect they undertake.
10. To explicitly stipulate good governance procedures for associations to follow in terms of the financial, administrative and technical aspects, characterized by transparency and disclosure. Stipulating that the private sector can provide financial support to associations as part of social responsibility, provided that it is deducted from the donor's tax burden.
11. Reviewing the legislative texts regulating penalties, starting from the principle of gradualism in penalties, and not prosecuting individuals in their personal capacity unless they commit crimes of embezzlement or breach of trust during the association's work.

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- do not violate the provisions of the Constitution. 3. The law regulates the method of forming associations, unions, and political parties and monitoring their resources. Published in Official Gazette No. 1093 on 1/8/1952, excellent issue, pp. 3-15.
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- According to the provisions of Article (22) of the Associations Law, which stipulates: “A fund called (the Associations Support Fund) has been established in the Ministry, which aims to support associations. It has a legal personality and financial and administrative independence. It has the right to own movable and immovable funds and invest them in the way it deems appropriate, and to act on its behalf in the procedures.”  
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- According to the provisions of Article (5) of the Public Meetings Law
- According to the provisions of Article (5) Paragraph (C) of the Associations Law. According to the provisions of Article (72), Paragraph (A) of the Associations Law According to the provisions of Articles 10, 11, 12, and 13 of the Associations Law. According to the text of Article (17) of the Associations Law.
- According to the text of Article (19), paragraph A/2. According to the text of Article (20), paragraph (b). According to the text of Article (7) of the Associations Law.
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objectives stated in its bylaws and in accordance with the terms and conditions stipulated in this law and the regulations and instructions issued pursuant to it. She has the right to litigate and appoint lawyers.”

Article (14), paragraph (a) of the Law of Associations stipulates: “The association must abide by the provisions of this law and the regulations and instructions issued pursuant to it, and it must also do and adhere to the following: exercising its work and activities in accordance with the provisions of its bylaws, opening the door to membership to everyone who meets the conditions for acquiring membership.” In accordance with the provisions of its bylaws, notifying the competent minister and the registrar of the date, place and agenda of its general assembly meeting at least two weeks before the meeting, recording and preserving the minutes of the meetings of its administrative body and its general assembly and the decisions issued by each of them at its main headquarters in a sequential manner, maintaining financial records that It shows its revenues and expenditures, and maintains a record of the assets and supplies available to it and any records necessary to carry out its activity and business in accordance with its bylaws.

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In accordance with Article Four of the Associations Law.

In accordance with Article Four of the Law on Associations, the government representatives in this council are: the registrar, a representative of the Ministry of Interior, a representative of the Ministry of Culture, a

representative of the Ministry of Tourism and Antiquities, a representative of the Ministry of Environment, and a representative of the Ministry of Political Development.

In accordance with the provisions of Article (22) Paragraph (C) of the Associations Law. In accordance with the provisions of Article (23), Paragraph (A) of the Associations Law. In accordance with the provisions of Article (28) Paragraph (D) of the Associations Law. In accordance with the provisions of Article (30) Paragraph (B) of the Associations Law. In accordance with the provisions of Article (30), Paragraph (A) of the Associations Law Issued in Official Gazette No. 2646 dated 1/8/1976 on page 1858.

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It is stated in Article Two of the law that the competent ministry is “the official public ministry or institution designated by the Council to supervise the association and follow up on its affairs in accordance with the provisions of this law.” It was also stated that one of the tasks of the Register of Associations is one of the tasks of the Register of Associations, as well as in accordance with Article Five, Paragraph (A), Clause (1) of the Law of Associations, which indicated that identifying the competent ministry is one of the tasks of the Register.

It stipulates: “By decision of the competent court, anyone who takes over the management of the association’s funds and spends them contrary to its goals and objectives shall be punished with a fine of not less than one hundred dinars and not more than one thousand dinars, and another fine equivalent to the value of the damage resulting from that, anyone who agrees to accept any donation or Support or financing from Jordanian persons without disclosing it and recording it in the association’s records in accordance with the rules, with a fine of not less than five hundred dinars and not more than five thousand.

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Outputs of the Royal Commission to Modernize the Political System in 2021, p. 226, published on the committee's website, link: : <https://tahdeeth.jo/>

Paragraph (a) Clause (3) stipulates: "Notifying the competent minister and the registrar of the date, place and agenda of the meeting of its general assembly at least two weeks before the meeting."

Peng, Yixuan, Sayed Fayaz Ahmad, Ahmad Y. A. Bani Ahmad, Mustafa S. Al Shaikh, Mohammad Khalaf Daoud, and Fuad Mohammed Hussein Alhamdi. 2023. "Riding the Waves of Artificial Intelligence in Advancing Accounting and Its Implications for Sustainable Development Goals" *Sustainability* 15, no. 19: 14165. Perhaps these methods of registration have not been adopted in many legal experiments, such as Belgium, where documents are submitted to a notary public or the clerk's office in the Commercial Court, which then issues the association number in accordance with the law of June 27, 1921 AD regarding non-profit associations and European political institutions. And political institutions, as amended, referred to as Law (27) - 1921

Published in Official Gazette No. 5117 dated 10/1/2011 on page 4452.

Report of the Rapporteur on the rights to peaceful assembly and freedom of association, UN Document No. A/HRC/23/39 dated 4/24/2013 submitted to the Human Rights Council in implementation of Resolution No. 21/15 and Resolution No. 16/21.

See this: The mechanism for obtaining foreign financing provided to associations, non-profit companies, and federal and cooperative societies issued and approved by the Council of Ministers on 7/27/2020 and published on the Associations Register website, link <http://www.societies.gov.jo/EBV4>, which included many restrictions and controls on the mechanisms for associations obtaining support and funding.

Shaaban, Abdul Hussein, *Civil Society, Biography and Process*, 2012 edition, Atlas for Publishing, Translation, and Artistic and Cultural Production,

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that these meetings are linked to achieving their goals in accordance with the legislation regulating their work and activities."

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The Public Meetings Law, under Article (3), excluded meetings of general bodies of associations only, which makes the rest of the activities subject to the issue of notification, which turns into de facto approval, as Article (3), paragraph (1) of the Public Meetings Law stipulates: "(1) Meetings of public bodies of charitable and voluntary associations, companies, chambers of commerce and industry, municipalities, and clubs, provided

The rest of the paragraphs stipulate the following: (b) The right of unions to establish national federations or alliances, and the right of these federations to form or join international trade union organizations, (c) The right of unions to exercise their activities freely without restrictions other than those stipulated by law and which constitute necessary measures., in a democratic society, to maintain national security or public order or to protect the rights and freedoms of others. (d) The right to strike, provided that it is exercised in accordance with the laws of the country concerned. (2) This article does not prevent members of the armed forces, policemen, or employees of government departments from being subject to legal restrictions on their exercise of these rights. (3) Nothing in this Article permits States Parties to the International Labor Organization Convention of 1948.

The second paragraph of the same article stated: "(2) The exercise of these rights shall not be subject to restrictions other than those specified by law as may be necessary in a democratic society in the interest of national security, the safety of the public, the preservation of order, the prevention of crime, the protection of health and morals, or the protection of the rights and freedoms of others." This article does not prevent the imposition of legal restrictions on the exercise of these rights by members of the armed forces, police, or administration in the state.

The sixth annual report issued by the National Center for Human Rights in 2009, p. 62.

This law was distinguished by the fact that it narrowed the work of associations by granting the administrator and the district commander powers to follow up on the affairs of associations, and required that the number of founders be ten people as a minimum, in accordance with Article 2 thereof.

To view the text of these laws, see the Jordanian Legislation website: National Information System, quoted from the electronic link: [http://www.lob.gov.jo/ui/laws/search\\_character.jsp?char](http://www.lob.gov.jo/ui/laws/search_character.jsp?char)

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