

Oversight of the Constitutionality of Laws in the Jordanian Political System: A Comparative Study

Ayman Muhammad Al-Btoosh^{ID}, Rasha Adnan Mubaideen*^{ID}

Department of Basic Sciences, Faculty of Arts, Al-Zaytoonah University of Jordan, Amman, Jordan

Received: 28/1/2024
Revised: 17/4/2024
Accepted: 18/9/2024
Published online: 1/9/2025

* Corresponding author:
r.mubiadeen@zu.edu.jo

Citation: Al-Btoosh, A. M., & Mubaideen, R. A. (2025). The Oversight of the Constitutionality of Laws in the Jordanian Political System: A Comparative Study. *Dirasat: Human and Social Sciences*, 53(2), 6749.
<https://doi.org/10.35516/Hum.2025.6749>



© 2026 DSR Publishers/ The University of Jordan.

This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY-NC) license
<https://creativecommons.org/licenses/by-nc/4.0/>

Abstract

Objectives: As a comparative study, the current article aims to identify the extent to which the constitutionality of laws is applied in the Jordanian political system, by reviewing the types of oversight, as represented in the political and judicial domains. It also probes the constitutionality of laws in the Jordanian political system based on the constitutional amendments of (2011), which led to the creation of the Constitutional Court.

Methods: The methodology adopted in this study is based on the descriptive approach.

Results: The findings indicate cases of unconstitutionality of legal legislation, based on examining the approach followed to determine the extent to which the constitutionality of laws is applied in the political systems in the US and the Republic of France at the international level, and in Egypt at the regional level. The results are also drawn by analyzing the extent of compatibility between the constitutionality of laws at the international and regional levels on the one hand and within the Jordanian political system on the other.

Conclusions: The research paper concludes with the most important issues and recommendations related to the current research problem by stating that rulings issued by the Constitutional Court are absolute, as opposed to relative, and are not subject to appeal. It also concludes that the ruling of unconstitutionality applies immediately, without having a retroactive effect.

Keywords: Constitutional court, judicial oversight, political oversight, political system.

الرقابة على دستورية القوانين في النظام السياسي الأردني: دراسة مقارنة

أيمن محمد البطوش، رشا عدنان مبيضين*
قسم العلوم الأساسية، كلية الآداب، جامعة الزيتونة الأردنية، عمان-الأردن

ملخص

الأهداف: يهدف المقال الحالي إلى تعرّف مدى تطبيق دستورية القوانين في النظام السياسي الأردني دراسة مقارنة من خلال استعراض أنواع الرقابة على دستورية القوانين المتمثلة بالرقابة السياسية والرقابة القضائية، ودستورية القوانين في النظام السياسي الأردني استناداً إلى التعديلات الدستورية لعام (2011) والمتمثلة بإنشاء المحكمة الدستورية.

المنهجية: المنهجية المعتمدة في هذه الدراسة تعتمد على استخدام المنهج الوصفي.

النتائج: وتشير النتائج إلى حالات عدم دستورية التشريعات القانونية، ودراسة المنهج المتبع في مدى تطبيق دستورية القوانين في الأنظمة السياسية على المستوى الدولي في الولايات المتحدة الأمريكية، جمهورية فرنسا، وعلى المستوى الإقليمي في دولة مصر، ومدى التوافق بين دستورية القوانين على المستوى الدولي والإقليمي مع النظام السياسي الأردني.

الخلاصة: وتختتم الورقة البحثية الحالية بأهم القضايا والتوصيات المتعلقة بمشكلة البحث المطروحة في العمل البحثي الحالي بالنص على أن الحكم الصادر عن المحكمة الدستورية مطلق وليس نسبي وأنه نهائي وغير قابل للطعن. كما خلصت إلى أن الحكم بعدم الدستورية لا يسري إلا مباشرة دون أن يكون له أثر رجعي.

الكلمات الدالة: المحكمة الدستورية، الرقابة القضائية، الرقابة السياسية، النظام السياسي.

1. Introduction

Oversight of the constitutionality of laws is a fundamental aspect of democratic systems, which are traditionally built on the principle of separation of powers and the principle of legality, a derivative of the rule of law. In Jordan, the examination of the constitutionality of laws is deemed crucial for ensuring the constitution's supremacy over all other legal rules. This practice ensures that the laws enacted are not only in compliance with the constitution but also reflect its spirit and principles. According to Al-Shawabkeh (2021), the examination of constitutional adherence began with the formation of the Hashemite Kingdom of Jordan. The process dates back to the political will expressed in 1921 to establish a committee tasked with drafting a basic law, or constitution (Al-Ghammaz et al., 2023). This committee's work culminated in the issuance of the constitution in 1928, marking a significant stage in the development of Jordanian constitutional law. This was followed by further constitutional developments with the constitution of 1946, another milestone in the evolution of Jordan's legal framework (Murshed et al., 2023).

In the Jordanian context, constitutions are generally seen as contracts between the ruler and the ruled, established either through a national council formed constitutionally or via a general referendum. The people, to whom the constitution applies, are considered primarily responsible for drafting it, ensuring that it reflects their needs and aspirations. Bani Salameh and Darawsheh (2018) supported this view by highlighting the participatory nature of constitutional development in Jordan, suggesting that the inclusion of public opinion in constitutional matters is essential for the legitimacy and acceptance of legal frameworks.

The announcement of the Jericho Conference, which resulted in the formation of the first parliament, where the Jordanian government appointed a committee to draft a draft constitution, was submitted to Parliament, and this constitution had a contractual or semi-contractual nature with the approval of representatives (Al-Khatib, 2017). Thus, a general constitution was issued (1952), where Jordan entered a new stage of its political development, and it now has one of the best Arab constitutions in the modern era, and a pioneering step in developing political action. The constitution was published and issued on 01/18/1952, and it included a hereditary monarchy, representative system of government, where a representative office was introduced. On my property, and that the people are the source of powers, and the people exercise their powers in the manner stated in the constitution (Melhem, 2015).

Moreover, Articles (25-26-27) of the Jordanian Constitution stipulate the separation of the three legislative, executive, and judicial powers (Al-Shawabkeh, 2021), while maintaining a flexible balance that ensures cooperation among them without sovereignty or authority overtaking another, and determining how the legislative authority can exercise what it has been delegated to do. By the people in accordance with the constitutional and legal rules, (Abu Hajila, 2004), and to keep pace with the development, modernization and reform required by the nature of social, economic and political development, (Al-Hiyari, 2004) and in continuation of the reform trend that began to prevail in Jordanian society, and when the last constitutional amendment was made in 2011. In response to the general trend for further development and renewal, this was done by establishing a royal committee to amend the constitution. The royal committee submitted several amendments, the most important of which was the establishment of the Constitutional Court, in accordance with what was stated in Article (58) of the constitution, which led to the transfer of oversight from decentralized and non-centralized. Directly through the sub-payment route to direct central control (Abu Al-Etam, 2004). With this detailed introduction, the related literature review is offered in the following section.

2. Literature Review

Research has documented the control over the constitutionality of laws in several political systems. Ryan (2011) focuses on the wave of political reforms in Jordan triggered by the Arab Spring. Inspired by the revolutions in Tunisia and Egypt, Jordanians took to the streets to demand significant political changes. This period of intense political activity aimed to achieve comprehensive reforms, including the modernization of electoral laws. Ryan examines these protests and the broader context of political activism, providing insights into the demands and outcomes of such reform efforts in Jordan. Also, Mark, Haas, and David (2016) analyze the Arab Spring, focusing on the peaceful protests that began in late 2010.

These protests, sparked by dissatisfaction with political systems across several Arab nations, sought to modernize the political and electoral systems. They delve into the state of political unrest that swept the Arab region, exploring the aspirations for political reforms and the reality of the uprisings' outcomes. Their work provides a detailed examination of the factors leading to the protests and the implications for the political landscape in the Arab world.

Likewise, Al-Shaab (2015) clarifies the difference between judicial and political oversight of the constitutionality of the laws, the nature of the constitutional proceedings and their conditions and the extent to which they differ from other cases, the position of the legislature (Jordanian and French) in this case and the success of Jordanian legislation in dealing with constitutional proceedings as compared to French legislation. In the same context, Bani Salameh and El-Edwan (2016) delve into the complex evolution of Jordanian national identity since the founding of the Jordanian state in 1921. This comprehensive review assesses how internal and external, political, social, economic, and cultural conditions have influenced the national identity. The study encapsulates the multifaceted nature of Jordanian identity which includes religious, national, regional, ethnic, and tribal elements. The authors argue that the state's policies and initiatives over the decades have sometimes mitigated, but at other times exacerbated, the challenges of forming a cohesive national identity.

Moreover, Bani Salameh (2017) explores the theme of political reform in Jordan, examining the mechanisms of reform and the underlying motivations driving these changes. The study traces the evolution of political reforms during the reigns of King Hussein and King Abdullah II, highlighting the complexities and challenges in implementing reforms that align with the aspirations of Jordanian society. Bani Salamah also provides a critical analysis of the progress and setbacks in Jordan's political landscape, offering insights into the realities of reform efforts in a dynamic Middle Eastern political context. The aim of the study was to describe the legal framework governing the subject of control over the constitutionality of laws, including the concept of censorship and its mechanisms, their nature and limitations, and their impact on ensuring the protection and entrenchment of constitutional texts in certain Arab legislation.

Additionally, Ziad al-Adwan and Leith Nasrawin (2018) aim to demonstrate the importance of the constitutionality of laws in Jordan, which is the primary means of achieving constitutional limitations and is to guarantee freedom and stability of the legal system. The study also sought to demonstrate the legal status of the Constitution as the head of the legal hierarchy and must be subject to all legal rules. Also, Rauf Al-Kasasba and Salem Al-Adailah (2020) demonstrate the constitutionality of laws as the best means of ensuring that the Constitution is respected and labelled on all legal rules in the legislative hierarchy. This control takes two political forms and is carried out by a political body. It can be entrusted to a judicial body and then has judicial oversight. What is more, Hamoud Al-Manrouti and Abd Al-Rahman Abu-Abat (2021) demonstrate the control of laws, as they are considered to be one of the most important principles to be paid attention to in order to damage both the provisions of the Constitution and the organic laws. The study also posed a major problem of the extent of the Constitutional Court's power to oversee jurists.

Besides, Ibrahim (2023) aimed at controlling the constitutionality of laws as the most important legal means of upholding the value of the Constitution. Its role is to determine whether or not the law conforms to the Constitution. The thorough literature review previously given shows that little research has been done on the control over the constitutionality of laws in several political systems at the Jordanian level which makes this research study a true contribution to the related research area. With that, the research problem is shown in detail in the next section.

3. Research Problem

The application of the constitutionality of laws and regulations is important, as it is the means of ensuring freedom and stability of the legal system (Shisha, 2004), and that the Constitution is paramount in relation to the legal rules of the State, so it must be subject to all the lower legal rules of the State, and not disagree with it. This is the so-called superiority of the Constitution, and constitutional censorship is in rigid constitutions, and that there are two types of constitutional political and judicial oversight, exercised by competent political bodies. It is named after the body that exercises it, which is a pre-enactment control, Judicial oversight is exercised through a judicial body, which is the control of omission or revocation.

In Jordan, judicial control over the constitutionality of laws has gone through two stages: the pre-constitutional

amendments. (2011) and stage after (2011), where censorship of the constitutionality of laws and regulations went from indirect control by way of subsidiary payment to direct control by the Constitutional Court (Abu Al-Etam, 2004). It is of high significance to identify the extent to which Jordan's constitutionality applies to local and global developments. and to consider objections submitted to the Court by specific legal actors exclusively and to consider the constitutionality of the legislature's legal legislation and make a legal decision on such objections and the extent to which they are discontinued and invalidated for incompatibility with constitutional provisions, in order to achieve effective constitutional control in keeping with the evolution and challenge of domestic and international legal legislation. With this in mind, the research problem is reflected in answering the following questions:

- What is the extent of commitment to implementing types of oversight on the constitutionality of laws?
- To what extent has the Constitutional Court achieved the goal of examining the constitutionality of laws in Jordan?
- Is it possible to identify the approach followed in constitutional oversight of laws in the countries being compared?
- What is the extent of compliance with the legal measures taken by the Constitutional Court against the violating legal text and legal legislation that violates the legal jurisdiction of the competent authority?

4. The Research Significance

The significance of the current research study is drawn from the importance of examining the period of application of the constitutionality of laws in the Jordanian political system as a comparative study. The significance of the current research study is also reflected in the importance of the information added in the research in addition to the importance of the concepts that will be used in this study. It is hoped that this will lead to increase researchers' interest in the concept of the constitutionality of laws in Jordan, and its role in keeping pace with developments.

In order to achieve the desired goal, this article makes a comparative analysis on oversight compared to the United States of America, the Republic of France, and the State of Egypt. The research's contribution also lies in the preparation of plans and programs that must be carried out by specialists in the executive authority, by examining the approach followed in applying the constitutionality of laws in Jordan and its role in keeping pace with modern developments.

5. Research Limitations

The study focuses on the application of the constitutionality of jurists in the Jordanian political system as a comparative study by reviewing the approach taken in the application of the constitutionality of jurists in Jordan through the establishment of the Constitutional Court, the statement of those entitled to appeal against unconstitutionality directly, and the statement of unconstitutionality compared with United States, France and Egypt.

6. Methods

The methodology adopted in this study involves utilizing the descriptive approach. The descriptive approach in the study is the approach adopted in many sources and information, which are represented in foreign, Arab and Jordanian books and references related to the study subject.

7. Discussion

Due to the nature of the current research work, the discussion is structured in three key areas, as follows: control over the constitutionality of laws in domestic, regional and international political systems, constitutionality of laws in Jordan's political system, and Constitutionality of international and regional jurists.

7.1 control over the constitutionality of laws in domestic, regional and international political systems

The application of the constitutionality of nationals in political systems of both political and judicial types is aimed at preventing the enactment of the law contrary to the Constitution (Shiha, 2004). Political censorship is characterized by the fact that whoever is exercised by a political body is the choice of its members by the legislature alone or in conjunction

with the executive branch. Judicial oversight is carried out by a judicial committee composed of competent judges (Al-Shaer, 2003).

7.1.1 Political Oversight

Political censorship is preventive control prior to the promulgation of the law, thus preventing its promulgation if it contravenes a provision of the Constitution (Al-Sharif, 1983) and is exercised by a political committee whose members are selected (Al-Tamawi, 1976) by the legislature or in conjunction with the executive (Eid, 2003). The Constitutions differ in the composition of this body, as regulated by the Constitution. This body may be constituted by appointment by Parliament or by the Executive (Abdalat, 2015) or by election. The prominent model of political censorship is the French model, since France has instituted political censorship in its constitutions, particularly the Constitution of Sinti (1946, 1958).

Other countries have embraced the idea of political censorship, including those that took socialism after the Second World War. (Suleiman, 1995) from the Arab States that approached the same French approach as the Maghreb States, the Moroccan Constitution (1996), entrusted the Constitutional Council and the Algerian Constitution with the task of monitoring the constitutionality of laws (1996), also provided for the establishment of a Constitutional Council and the Tunisian Constitution (1995) Provided for the establishment of a Constitutional Council to consider draft laws submitted to the President of the Republic in conformity with the Constitution (Al-Shaer, 2003) Political censorship is characterized as deriving its basis from the principle of separation of powers, as this principle is based on the fact that the judiciary may not interfere in the work of the legislature (Shiha, 2004) With such oversight, Parliament is able to avoid the control and interference of the judiciary and thus such censorship (Al-Tal, 2020) avoids disagreement between the authorities.

The shortcomings of political oversight are that they do not achieve the objective of impartiality in their application. This undermines the purpose of the oversight report. The composition of this body may be made by appointment by Parliament or by election by the people. The introduction of this method in the composition of this body undoubtedly constitutes a danger to the independence of this body, and thus its impartiality and impartiality. The committee formed by appointment by Parliament is liable to be subordinate to it and therefore loses its *raison d'être*, which is to censor it. If the appointment by the executive branch becomes bound by that authority in its instructions, its control of the work of the legislature leads to a persistent disagreement between the legislative and executive branches (Abu Majd, 1960).

The political censorship has other drawbacks: this kind of control over the constitutionality of laws in the interest of public authorities rather than in the interests of private individuals, who have been denied the right to the Council to challenge the constitutionality of a law whose constitutional rights or freedom have been violated. The Constitution must guarantee the rights of individuals, and that censorship will not be feasible for its purpose (Al-Tal, 2020), Once the Commission is constituted by election by the people, it leads to control of the same political tendencies that control Parliament, and therefore the value of its establishment is worthless. (Abdelwahab, 1998) and the Political Committee's inability to be able (Obeid, 2002) examined and examined legal problems (Abdelbaset, 2002) and that such censorship is characterized by a special legal nature whereby its authors assume that there is a need for legal competence in order to determine the compatibility of the laws promulgated by the legislature with the provisions of the Constitution (Al-Shaer, 1998).

7.1.2 Judicial Oversight

Judicial oversight of a body of judicial character and character is its composition and procedures with the task of monitoring the constitutionality of laws, the extent to which laws conform or do not conform to the provisions of the Constitution in all impartiality, independence and freedom of litigation, and the publicity of hearings, and the application of the constitutionality of laws is a certain guarantee of respect for the Constitution from the public authorities (Kulthum, 2005). The existence of the judicial oversight body varies from State to State, depending on that State's legal system, the ordinary judiciary of a unit, administrative judiciary of a unit, or both, or a constitutional court specifically established (Al-Tal, 2020) for the constitutionality of laws and regulations (Eid, 2002).

That an American is the home of judicial control over the constitutionality of laws, where the courts have recognized their right to oversee the constitutionality of laws and the actions of governments, in the absence of a provision regulating

the constitutionality of the laws. (Abdelwahab, 1998) In view of the criticisms made by scholars of political censorship (Al-Shaer, 1998), which were proved by practical reality, as judicial censorship, (Abu al-Majd, 1960) is a guarantee of the constitutionality of laws, through the impartiality and independence of such censorship. (Asfour, 1980) and its members are unimpressed by the political vibe and the legal composition that qualifies them to exercise their role to the fullest. (Obeid, 2002) and judicial control is intended for the judiciary to examine the constitutionality of Parliament's laws, to ascertain whether they are in conformity or contravention of the Constitution (Nasreen, 2022).

7.1.3 Difference between Political and Judicial Oversight

Political censorship is before the law is passed. Judicial control is after the unconstitutional law. (Al-Shaer, 1998) and exercise its oversight role, thus giving the judge the right to verify the conformity of the law with the provisions of the Constitution. (Al-Kasasba & Swelmi, 2020) to determine the extent of Parliament's commitment to competencies, and since France is a prominent example of political censorship, in contrast it considers an American to be the cradle of the establishment of the judicial system in censoring the constitutionality of laws (Al Tal, 2020). France is considered to have a prominent role in political censorship in return, America is also considered the cradle of the establishment of the judicial system to control the constitutionality of laws (Shawabaqat, 2021).

The constitutional texts occupy the highest place in the hierarchy of the legal system. The Constitution means the constitutional norms over other legal norms applicable in the State. The institutions and organs must be in conformity with the Constitution, no authority may operate except in accordance with the Constitution's rules legitimized the exercise of power ", as it was the constitutionality of the laws that legitimized the exercise of power, on this basis, the Constitution's texts are more stable and stable than normal legal rules. Therefore, constitutional texts can only be repealed by other rules themselves (Abu Al-Atham, 2004), the necessity of adapting ordinary legal rules to constitutional texts constitutionality of laws, one of the most important legal guarantees of respect for the Constitution, was established for that reason. and the need for such a guarantee is particularly evident in rigid constitutions, since flexible constitutions are not envisaged to be censored flexible constitutions can be amended in the same way as ordinary laws (Nasreen, 2022). We can generally distinguish between two types of censorship. The first is political and the second is judicial, and the latter is divided into abstinence and abolition control (Zoubi, 1996).

7.2 Constitutionality of laws in Jordan's Political System

The importance of the constitutionality of laws, their role in the Constitution's immunity from any violations to which they may be subjected and the consequent respect of laws and regulations by public authorities, (Al-Bandari, 2023) guarantees the general freedoms of individuals provided for in the Jordanian Constitution, (Ahmad & Al-Btoosh, 2024) and in line with the modern development of democratic systems, (Al-Zabin & Al-Btoosh, 2024) the approval of the control of the constitutionality of laws by the amendments of the year (2011) to the establishment of a Constitutional Court (Al-Tawil, 1997), as stated in Article (58) of the Constitution, which led to the indirect transition of censorship by way of subsidiary payment to central direct control, in October (2011) The last constitutional amendment was enacted, and based on the constitutional amendments, the Constitutional Court Act No. (15) For the year 2012, the Royal Will was issued on October 6 with the appointment of the President and members of the Constitutional Court (Al Tal, 2020).

7.2.1 Constitutional Court Oversight

The establishment of a constitutional court in Jordan has been a topic of intense debate, reflecting the broader challenges and the dynamic nature of political reform in the country. This document explores the nuanced positions of supporters and opponents of this pivotal institution, tracing the evolution of constitutional oversight mechanisms and their implications for Jordan's political landscape (Al-Nasraween, 2014). Historically, the concept of a constitutional court in Jordan has been met with mixed reactions. Opponents argue that existing judicial structures, such as the Supreme Council, adequately perform the function of constitutionalizing laws and ensuring legislative adherence to the constitution. This view posits that a new court would be redundant and could destabilize the perceived balance of power. Furthermore, the establishment of such a court would require significant legal and constitutional amendments, which are often viewed as destabilizing in a political system that regards the constitution as a symbol of national stability (Curtis R, 2011).

Significant reforms were implemented following the Arab Spring, as highlighted by the establishment of the Independent Election Commission and reforms aimed at curbing electoral fraud. These changes are part of a broader effort to modernize Jordan's political system and reduce the dominance of executive powers. Critics argue that while these reforms are a step in the right direction, they remain insufficient to ensure true judicial independence and democratic governance (Bani Salameh & Ananzah, 2015). The Arab Spring significantly influenced Jordan's political reforms, with King Abdullah II responding to the call for change through substantial constitutional amendments. These reforms aimed to strengthen judicial independence and minimize executive overreach by establishing bodies like the Independent Election Commission and enhancing the role of the Constitutional Court. This court was envisioned as a mechanism to restore balance among governmental powers by overseeing the constitutionality of laws and providing final interpretations of constitutional provisions (Bani Salameh, 2013).

Despite these advancements, the constitutional court's establishment has not been without criticism. Detractors argue that it could limit democratic processes by constraining legislative actions and overly centralizing judicial power. Additionally, the requirement for highly qualified legal professionals to staff the court poses a significant challenge, given the specialized nature of constitutional law. The debate over the constitutional court in Jordan encapsulates the broader challenges of political and legal reform in the country (Bani Salameh, 2013). However, it represents a critical step towards enhancing judicial independence and ensuring the supremacy of the constitution. It also highlights the ongoing struggle to balance stability with the need for democratic progress in a rapidly changing regional and global context (Bani Salameh, 2013).

The establishment of the Constitutional Court comes as an independent judicial body responsible for the constitutionality of laws and regulations and the interpretation of the provisions of the Constitution. The Constitutional Court was established in a special chapter, chapter V of the Jordanian Constitution, specifically in articles 58-61, which set out the Constitutional Court's competence and the entities having the right of appeal. The articles read as follows (Abu al-Atham, 2004):

Article 58/1 of the amended Constitution stipulates: "A Constitutional Court shall be established in Jordan. It shall be based in the capital. It shall be regarded as an independent and autonomous judiciary (Husban, 2003).

Article 59 of the Constitution defines the Constitutional Court's jurisdiction.

Article 60 specifies who has the right to appeal to the Constitutional Court, namely, the Council of Ministers, the House of Representatives and the House of Representatives. (Nisreen, 2020) Article (60/1) confers on the parties to the proceedings the unconstitutionality of the law or regime applicable to the subject matter of the dispute, and if the trial court finds the seriousness of the argument raised before it, the matter shall be referred to the Court of Cassation, as defined by the Constitutional Court Act of 1. (2012), the Court of Cassation has established the seriousness of the case and refers the matter to the Constitutional Court.

Article 61 stipulates the conditions to be met by members of the Constitutional Court (Zu 'bi, 1996).

Article 61, paragraph 3, of the Constitution stipulates that the law shall specify the way in which the Court operates and administers it and how to challenge it, all matters relating to it, its procedures, judgments and decisions, and shall proceed with its work after the law relating to it has been put into effect. The law shall set out the rights and immunities of its members.

Article (a/3) of the Court Act has been returned to the Article (58/1) of the amended Constitution, and the texts of the Constitution and the law affirm that the Court is an independent and independent judiciary that is no longer part of the judiciary, as stipulated in paragraph (b) from (3/11) that "the Court shall enjoy legal personality and financial and administrative independence, and shall be represented in judicial proceedings by the Civil Advocate General. The rules on judges, such as non-dismissal, disciplinary guarantees and others, shall apply to the members of this Court.

The need to establish a court responsible for the constitutionality of laws to ensure that its provisions do not derogate from the Supreme Constitution of Laws and its names, provided that its members possess legal knowledge and experience (Al-Tawal, 1997). Upholding the establishment Constitutional Court, requiring that its ruling be binding on all authorities

in the State, that its jurisdiction be limited to the statement of constitutional judgment, and that it not extend to the repeal of legislation contrary to the Constitution, as it infringes upon the legislature, thereby violating the principle of separation of powers (Al-Tal, 2000; Cnaan, 2011).

7.2.2 Constitutional Procedures required to Conform to the Constitutionality of Nationals

The Jordanian Constitution requires legal procedures that cannot be overridden (Metwally, 1993) and if it gets out, it's against the Constitution (Al-Shaer, 1998) hence an unconstitutional law. (Shubaki, 2021) These restrictions are the form required by the Constitution in the Act the Constitution sets out the formal conditions and procedures to be observed, and the second limitation is the subject of the law and its content, which must be in conformity with the Constitution or be considered contrary to the Constitution; The law must be passed by the competent authority, the legislature and so that the law is not contrary to the Constitution, and in addition to the form required by the Constitution in law It must also be consistent with its subject and content (Nasreen, 2020).

Abu Al-Atham (2004) show that lack of jurisdiction is the legal inability to take certain conduct, as a result of a violation and breach of the rules established for the competent authority's jurisdiction (Poet, 1998), the principle of separation of powers aims at the distribution of competencies among the three State authorities (Legislative, Executive and Judicial) (Abu al-Atham, 2004) in such a way as to ensure that responsibilities are defined and these authorities do not overlap; These powers are derived from the Constitution, so that jurisdiction may be exercised only by the body designated by the Constitution. Consequently, no authority granted by the Constitution may delegate any other competence in the exercise of such competence except on the basis of an explicit provision thereof.

The disadvantage of lack of competence in the constitutional sphere is based on a violation of the competent authority to legislate of the rules of competence established by the Constitution and this defect may be organic, objective, temporal or spatial (Abu Majd, 1960). The terms of reference stipulated by the Constitution must be adhered to. This principle may not be derogated from except as expressly provided in the Constitution, since the organic or personal jurisdiction is the issuance of the law from the authority granted by that law (Al-Jabra, Al-Afaishat, & Al-Arasi, 2022). The law must be passed by the legislature, which is represented by the Council of the Nation with the naughty eyes and deputies, and the law must go through the constitutional stages of ratification of the law by His Majesty the King and publish it in official newspapers.

The executive branch has the obligation to intervene in the legislative branch's competence in order to reflect the separation of powers, although some constitutions have identified an area is certain (Al Shawabka, 2021) and this is what is stipulated in the French Constitution. (1958), which distributed the legislative function between Parliament and the Executive, so that the role of Parliament would be defined exclusively so that if it proceeded in areas other than its constitutionally defined areas, it would be deemed unconstitutional for violating the organic or personal element of competence (Al-Shear, 1998). The enactment of the legislation challenged by the non-competent authority (Abu Al-Majd, 1960) means the competent authority of the legislation, where the legislative authority must exercise its competence in the subject matter entrusted to it by the Constitution, otherwise the legislation is contrary to the Constitution for the failure of the substantive element of competence (Al Shawabka, 2021).

The Constitution sets a time limit on the exercise of legislative competence by the legislature If the authority carrying out that task does not observe the time limit and promulgates the legislation at a time when it does not have the right to exercise such competence then it falls outside the constitutionally prescribed time limit for the promulgation and consequently the legislation is contrary to the Constitution's time limit, The delay in the time limitation would be achieved in terms of Parliament's approval of a law after its dissolution or expiration of the period specified in the Constitution or in the case of legislative authorization after the expiration of the time limit for the exercise of such authorization, The enactment of this legislation is a clear violation of the Constitution's time limitation on the exercise of this exceptional competence by the executive branch (Nasreen, 2021).

7.3 Constitutionality of International and Regional Jurists

7.3.1 Constitutionality of laws in the French political system

The constitutionality of France's nationalists was linked to the evolution of the modern constitutional movement that emerged at the end of the eighteenth century, the aim of which was to establish the rule of law and reduce the absolute rule that printed a range of political systems, but the course of consolidating this idea was not as easy as you think. Because it was initially not accepted and applauded, it was strongly resisted by the fact that it coincided with the emergence of some ideas that prevailed at the time. The constitutionality of laws was attributed to the Constitutional Council, so how the doctrine contributed to the emergence of control over the constitutionality of laws in France and how the Constitutional Council exercises such censorship.

The supervisory body proposed by him was established, but with the new designation of the Senate Protector of the Constitution, to monitor the constitutionality of laws, resolutions and decrees of the Executive, but this Council failed in its task and could not repeal any law contrary to the Constitution; This is due to a range of considerations, that the Council cannot proceed to the constitutionality of laws on its own, and that the Council is under the control of Emperor Nabilion, who dominated its members with regard to the manner in which they were appointed, paid and compensated, and Napoleon abolished the House of Assembly, which was the Senate (Philip, 1980) has failed to perform the function of constitutionality of laws prior to their promulgation by exercising censorship at his request.

The writings of the Austrian jurist Kelsen, credited with the emergence of the European model, which in turn affirmed the Constitution's preference over legislation, and that ensuring respect for the Constitution required constitutional control (Philip, 1980). Not only is the legal system not a system of laws handled by a judge specializing in legal rules placed at the same rank, but it is based on floors according to a hierarchy in a particular hierarchy or layers of legal rules; Thus, Kelsen is the first to propose the doctrine of the legal system, which depends not only on the principle of constitutional control, but also on the entire legal format. In other words, the theoretical basis of the lower legal rules of constitutional norms, and conformity charges the content and formalities of the law, i.e. the respect of the ruler during the formulation of the rule of law (Philip, 1980).

7.3.2 Constitutionality of Laws in the American Political System

The United States judiciary remained reluctant to censor the constitutionality of laws until, in 1789, the American Union, whose Constitution was rigid and whose amendment required complex and difficult procedures and rulings, more than those required by ordinary law, was considered the country's highest law, by courts in all states. The United States is the home country for judicial oversight of the constitutionality of laws, one of the most important innovations produced in the world of constitutional law, given the competence of the courts in general and the Supreme Court in particular. Such oversight would not have been enshrined in American practice, but for the interplay of historical factors on the one hand, and constitutional jurisprudence on the other, that's American. Under British colonialism, it had no authority other than that established by the colonial State under the orders and laws enacted by the Imperial

Parliament, as these laws were superior to all the rules enacted by the state parliaments. American courts were reluctant to apply laws enacted by their parliaments, if they exceeded the limits laid down for their jurisdiction in royal orders issued by the British Crown and imperial laws. Accordingly, when the United States achieved its independence from Britain in 1776, each state ensured that it had its own rigid constitution, introducing the principle of distinguishing between constitutional texts and ordinary laws. The colonizer's influence was to ensure that its constitutions had the same status as royal orders, making them free from legislative power and forcing the courts to refrain from applying any law contrary to them. This explains how precedents existed to control the constitutionality of laws prior to the establishment of the American Union in 1789, as evidenced by the rulings of the courts of "New Jersey" in 1780, Rhode Island in 1786 and Virginia in 1788; all are in the same vein of unconstitutionality of laws.

The American judicial system remained reluctant on the question of the constitutionality of laws until the American Union established in 1789, and its Constitution was rigid and its amendment required complex and difficult procedures and catheterization, more than those required by ordinary law. But not explicitly stipulating censorship in the US Constitution

will spark debate on the extent to which federal courts may exercise the constitutionality of laws and refrain from applying them, and the difference between the various jurisprudence views on the matter persisted Judge John Marshall resolved the debate in *Marbury v. Madison* in what he called "night judges", Marbury filed a case against Madison requesting two orders, the first being that the court recognize his right to appointment.

The second was to issue the execution order, and Judge John Marshall responded to the first request. However, he did not respond to the second application, explaining that the law on which Marbury's second application was based gave the Supreme Court jurisdiction that the Constitution itself did not give it. Accordingly, it refrains from applying this legal requirement because it contravenes the Constitution. This was the first judicial provision of its kind to enshrine the constitutionality of laws in the United States, to succeed in cases and follow up on the provisions that will proceed in the same direction by the various courts until the principle of the constitutionality of laws is confirmed as a guarantee of the constitutional rule's primacy over other legal rules.

7.3.3 Constitutionality of Laws in Egypt's Political System

The Constitution of the Arab Republic of Egypt was promulgated on 11 September 1971. The Supreme Constitutional Court was established as an independent judicial body, with the sole right to the constitutionality of laws and regulations or to the interpretation of legislative texts. It forwarded to the law the rules governing the organization of the court's conduct and to establish compensation for the Constitutional Council by an independent Constitutional Court, to amend its composition and the manner in which its members are appointed and to grant constitutional power over orders, to monitor the compatibility of laws and regulations with international treaties and to recognize the right of bodies to request an interpretative opinion from the Constitutional Court, which on this basis possesses competencies that may occur between constitutional authorities and institutions, as referred to the Constitution in its article (185) The Constitutional Court determines its rules of procedure (Ramadan, 1998). The legislature's adherence to the substantive controls prescribed by the Constitution requires the legislature to observe them when it carries out its task of enacting laws, but does not depart from them or is subject to the determination of their unconstitutionality by the Supreme Constitutional Court (Al Shawabka, 2021)

Cases of lack of substantive competence are more apparent when the executive exercises the function of legislation as an exception to public origin, where its function in this area is limited by constitutional texts, as this is deemed to be an exception to certain circumstances and considerations that may not be legislated or derogated from elsewhere (Obeid, 1983). If the executive power assigned to it is multiplied by the Constitution, its issuance is deemed to be a defect of unconstitutionality because the substantive element of competence is lagging behind (Al-Shear, 1998). Article 100 of the Egyptian Constitution of 1971 (Al-Tamawi, 1976) stipulates that: "The city of Cairo shall be the seat of the People's Assembly. In exceptional circumstances, it may hold its meetings in another city at the request of the President of the Republic or the majority of the members of the Council."

The enactment of legislation, taking into account the Constitution's rules and limitations, is insufficient, but must also be consistent with the provisions of the Constitution and the aims and objectives of the latter. (As measured by the definition of administrative deviation, try to set the standard of legislative deviation, where Al-Sinhour (1952), if we measure the deviation in the use of administrative authority, says that the legislator should use his legislative power in the public interest, not to envisage others (Abu Al-Atham, 2004), and does not deviate from it to another end, otherwise the legislation is null and void (the standard here is twofold: Self-determination is about the intentions and objectives of the legislature and its purpose (Ibrahim, 1982). Promulgating certain legislation and the substantive part is the general interest that the legislature must always pursue in its legislation, as well as the ad hoc purpose that has been established for certain legislation (Al-Shear, 1998). Al-Sinhour (1952), said that the legislature must use its legislative power in the public interest, not to envisage others, not to deviate from it to another end, otherwise the legislation is invalid. Al-Sinhour (1952) has ruled out the idea of subjective purpose and personal purposes in the actions of the legislature because this is not palatable to this authority. He has turned to a purely objective criterion of the general interest to which the legislature must aim. He has identified five hypotheses for the application of the objective criterion (Abu Al-Majd, 1960).

8. Results

After reviewing the topic of constitutionality of jurists, several key results are attained. It is found that the Constitutional Court's judgment is absolute and not relative. This is because constitutional proceedings are in kind, aimed at protecting constitutional legality and the Constitutional Court's judgments, which have absolute validity and do not have an effect on the litigants in the proceedings in which they were issued. Also, the Jordanian legislature has endeavored to state the nature of the Constitutional Court's judgment as final and uncontested. It is inadmissible for resuming proceedings before the Court. The ruling of unconstitutionality applies only with direct effect without retroactive effect. Once a provision has been issued imposing its sentences, it applies retroactively, extending until the date of the legislative text.

Another key point is that upon sentencing, the Constitutional Court shall exhaust its original jurisdiction as well as its dependence on its judgment. It shall not reverse, modify or add to its judgment. More importantly, the absolute validity of the judgments handed down in constitutional and preventive proceedings is limited to the legislative texts on which the constitutionality dispute has arisen. The texts which have not already been submitted or decided by the court do not extend to the absolute validity of the ruling in constitutional proceedings.

9. Conclusion

In a nutshell, the establishment of the Constitutional Court is shown to be a real guarantee of the constitutionality of jurists, named and superior to other legislation, where there must be guarantees that the authorities respect the competencies of the authorities (Al-Aras, 2020) entrusted to it in accordance with the provisions of the Constitution and not to override it, this is through the constitutionality of the laws on acts contrary to the Constitution to invalidate them. This is termed constitutional control of laws, a consequence of the principle of the primacy of the Constitution as being at the top of the hierarchy of legal rules. The principle of the primacy of the Constitution essentially means that the laws enacted by a State shall not be incurred in its substantive provisions, contrary to the substantive provisions of the Constitution Educational institutions must develop knowledge in identifying the constitutionality of laws in the Jordanian political system, (Al-Moumani, 2020) and compatibility with developments related to artificial intelligence applications, (Al-Shafi'i, 2022).

10. Recommendations

Given the research results, the current article recommends that the legislator should expand on those who request to challenge the constitutionality of laws, to achieve the purpose of establishing the Constitutional Court. It also recommends that the role of the Constitutional Court be activated in coordination with the Constitutional Courts in Arab and foreign countries through ongoing meetings, until the achievement of continuous developments with regard to oversight. Other recommendations include cooperation between the Constitutional Court and the Legislative and Opinion Office of the Executive Branch until the purpose of considering the legality of the regulations and laws before they are transferred to the Council of the Nation.

More significantly, this work also recommends cooperation between the legislature and the Constitutional Court prior to the promulgation of the bill to ensure that no law is passed that is contrary to the Constitution. Moreover, the research also recommends continuous communication between the Constitutional Court and the judiciary for the purpose for which the Constitutional Court was established.

REFERENCES

- Abdelbaset, M. (2002). *The Supreme Constitutional Court's mandate in constitutional matters*.
- Abdullah, S. (2001). *Controlling the constitutionality of laws is a comparative study*. Damascus: Damascus University Magazine.
- Ibrahim, S. (1982). *General constitutional principles*. Beirut: University House of Printing and Publishing.
- Ibrahim, A. (2004). *Constitutional Law General Theory and Constitutional Control*. Cairo: Arab Renaissance House.
- Abu Al-Atham, F. (2004). *Administrative judiciary between theory and practice*. Oman.

- Abu Hajeela, A. (2004). *Oversight of the constitutionality of Jordan's jurists*. Amman: A civilization for publishing and distribution.
- Abu Hajila, A. (1988). *Constitutional control of laws and their applications in the Hashemite Kingdom of Jordan, comparative study. Master's thesis unpublished*, University of Jordan, Jordan.
- Ahmad, S., & Al- Btoosh, A. (2024). The Extent of Adherence to the Inspection Stipulated in the Criminal Procedure Law by Members of the Judicial Police with the Constitutional Texts in Jordan. *The Environmental and Social Management Journal: Revista de Gestão Social e Ambiental*.
- Al-Arasi, S., Al-Afaishat, M., & Al-Tibi, T. (2020). The Challenges of Registration of Asylum-Seekers in the Hashemite Kingdom of Jordan. *Arab Law Quarterly*, 36(2), 235-253.
- Al-Btoosh, A. (2024). *Oversight of the constitutionality of laws in Jordan: Constitutional judiciary*. (1st ed.) Amman: Dar Wael for Publishing and Distribution.
- Al-Bandari, J. (2023). Considerations for the elaboration of constitutional amendments between reality and mamol in Jordan. *Jordanian Olive Journal of Legal Studies*, 4.
- Al-Ghammaz, S., Alsalti, M., El-Manaseer, M., Alshahwan, R., & Alamayraih, Z. (2023). Revisiting Mark Twain's *Adventures of Huckleberry Finn's* Jim from a Postcolonial Lens. *World Journal of English Language*, 14(1), 73. <http://dx.doi.org/10.5430/wjel.v14n1p73>
- Al-Hamouri, M. (2003). The Constitutional Court protects the freedoms of Umm Saif in the hands of the Government. The Jordanian newspaper Al-Rai. Issue 11823 Published on 28/12/2003.
- Al-Husban, A. (2003). Constitutionality of laws, comparative analysis study. *Journal of Constitutional Studies*, 5(5), 2-22.
- Al-Jabra, A., Al-Afaishat, M., & Al-Aras, S. (2022) Legal Protection of the private Electronic Life: Problems and Solutions. *Studies in Computational Intelligence*, 10(10), 717.
- Al-Khatib, N. (2005). *Mediator in political systems and constitutional law*. (1st ed.). Amman: Legal Library.
- Al-Khatib, N. (2017). *Mediator in political systems and constitutional law*. (11th ed.). Amman: House of Culture.
- Al-Kasasbeh, H., Al-Kasasbeh, A., & Al-Sulaymin, A. (2020). Constitutional Basis for the Circulation of Power by Contract of Sale: Analytical Study of Jurisprudence. *Journal of Jordanian Olive for Legal Studies*, 1(1).
- Al-Madhoun, D. (2015). *Happy judicial oversight of the constitutionality of laws comparative study between America, Egypt and Palestine*.
- Al-Momani, A. (2020). The Role of Yarmouk University in Reducing the Phenomenon of Unemployment from the Perspective of Graduate Students. *Al-Zaytoonah University of Jordan Journal for Human and Social Studies*, 1(1), 152 - 175.
- Al-Murshidi, A. (2016). *Integrated research on judicial control over the constitutionality of Egyptian and UAE nationals*.
- Al-Nasraween, L. (2014) The impact of the constitutional amendments in 2014 on the constitutional system in Jordan. *Dirasat: Sharia and Law*, 43(1).
- Al-Shafei, H. (2022). Computerization of Programs for Teaching Arabic to non-native Speakers: Android Applications as a Model. *Al-Zaytoonah University of Jordan Journal for Human and Social Studies*, 3,301-323. <http://dx.doi.org/10.15849/ZJHSS.220508.15>.
- Al-Sharif, A. (1983). *Study on the control of the constitutionality of laws*. Kuwait: Kuwait University publications.
- Al-Shawabka, M. (2021). *Abstinence control over the statutory constitution*. (1st ed.). Amman: House of Culture.
- Al-Shear, R. (1970). *General theory of constitutional law*. (1st ed.). Cairo: Ain Shams University Press.
- Al-Sinhouiri, A. (1952). *Violation of legislation and deviation in the use of power*. Egyptian State Council Magazine.
- Al-Tal, A. (2020). *To monitor the constitutionality of Jordanian laws before the Constitutional Court*. Research submitted to the Jordan Bar Association.
- Al-Tal, A. (2005). Constitutional Court. Jordanian newspaper Al-Quds, No. 11,767, 1/5/2000.
- Al-Tawil, F. (1997). Democracy and the rule of law. Discussion on the Constitutional Court. Amman: Sinbad Publishing House.
- Al-Zabin, S., & Al-Btoosh, A. (2024). The extent of the constitutionality of compulsory vaccination in the Jordanian legal system. *Al-Zaytoonah University Journal for Legal Studies*, 5(1), 1-22.
- Al-Zubai, H. (1995). *Principles of constitutional law and political systems*. Amman: Arab Student Services Center.
- Al-Zubai, H. (1996). Oversight of the constitutionality of laws in the laws of the Supreme Court of Justice and the regular courts

- in Jordan. *Proven Research and Studies: Humanities and Social Sciences Series, MJ*, 11, 1.
- Bani Salameh, M. (2007). Political Reform: Theoretical Study. *Al-Manarah For Research and Studies, Al al-Bayt University, Mafrq, Jordan*, 13(5), 1-23.
- Ban Salameh, M. (2013). *Al-Hirāk al-Shabābi al-Urduni fī Zāl al-Rabi 'a al-'Arabi*. Amman: Markaz al-Badil
- Bani Salameh, T., & Ali Ananzah, A. (2015). Constitutional Reforms in Jordan: A Critical Analysis. *Digest of Middle East Studies*, 24, 139-160. <https://doi.org/10.1111/dome.12068>
- Bani Salameh M. (2017) Political reform in Jordan: Reality and Aspirations. *World Affairs Journal*: 180.Winter. <https://doi.org/10.1177/0043820018765373>.
- Bani Salameh, M., & Darawsheh, S. (2018). Human Rights in the Jordanian Constitution: Between theoretical Texts and Practical Application. *International Journal of Human Rights and Constitutional Studies*, 6. <https://doi.org/10.1504/IJHRCS.2018.10012834>
- Bani Salameh, M., & El-Edwan, K. (2016). The identity crisis in Jordan: Historical pathways and contemporary debates. *Nationalities Papers*, 44(6), 985-1002. <https://doi.org/10.1080/00905992.2016.1231454>
- Bani Salameh, M. (2023). The Relationship between the Deep State and Democratic Transformation: The Case Study of Jordan. *Journal of Southwest Jiaotong University*, 58(2). <http://jsju.org/index.php/journal/article/view/1598>
- Canaan, N. (2011). Principles of Jordanian constitutional law and constitutional grievance in accordance with the constitutional amendments of 2011, pp. 317 ff.
- Constitutions and legal legislation: Jordan's Constitution of 1952, amended for 2011, article 60. The Moroccan Constitution of 1996, the Egyptian Constitution of 1971, the Tunisian Constitution of 1995, the Algerian Constitution of 1996, the French Constitution of 1958, article 56 and the United States Constitution.
- Constitutional Court Act of 2012, all articles of the Supreme Court of Justice Act of 1992, article 3, paragraphs (c) and (d), the Code of Criminal Procedure No. 9 of 1961, the Constitutional Court Act of 2012, article 12 (a) and the Jordanian Statutory Courts Act.
- Eusfur, S. (1980). *Basic principles of constitutional law and political systems*. Alexandria: Knowledge Facility.
- Glaze, N. (2019). The specificity of constitutional proceedings in Algerian legislation: a comparative analysis. *Journal of Legal and Political Sciences, Skikda University*, 10(2).
- Hanafi, A. (1987). *Responsibility for the Nationalists. PhD thesis*.
- Jaffin, A. (n.d). Les modes d'introduction du contrôle de la constitutionnalité des lois aux Etats.
- Kelsen, H. (1962). *Théorie pure du droit traduction de Charles Eisenmann*. Paris: Dalloz.
- Mahmoud, S., & Alsaid, A. (2011). *Control of the constitutionality of regulations: comparative study between Egypt, France and Kuwait*. Cairo: Arab Renaissance House.
- Mark, L., Haas, A., & David, W. (2016). *The Arab Spring: The Hope and Reality of the Uprisings*. London: Avalon Publishing, London
- Metwally, A. (1993). *Constitutional law and political regulations*. (5th ed.). Alexandria: Dar al-Ma 'raf.
- Murshed, A.A., Alhalalmeh, A.M.S., Alrahamneh, A.A.A., Almarashdeh, S.A., & Mubaideen, R.A. (2023). Social Justice as a Criterion for the Democracy of the Jordanian Constitution, Information Sciences Letters. *An International Journal. InfLett*, 12(7), 3372-3380
- Qasim, N. (2022). The adequacy of the original case in the supervision of the constitutionality of jurists, 3(2).
- Qatami, H. (2016). Effect of the Constitutional Court's judgment. Research presented at the Scientific Conference of Arab Constitutional Courts and Councils held in Jordan in 28-29/2/2016 under the theme "Challenges of reality and possible reforms in the light of regional changes".
- Philip, L. (1980). *Le conseil Constitutionnel que sais je?* P. U. F.
- Ramadan, U. (1998). *Controls and censorship on the constitutionality of nationals*.
- Ryan, C.R. (2011). Identity Politics, Reform, and Protest in Jordan. *Stud Ethn Nation*, 11: 564-578. doi:10.1111/ j.1754-9469.2011.01135.x. Publisher version of record available at: <https://onlinelibrary.wiley.com/doi/10.1111/j.1754-9469.2011.01135.x>