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The Impact of Constitutional Amendments on Entrenching the Right to Public Health

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ABSTRACT: The constitutional recognition of the right to health has become central to modern public health governance, reflecting its status as a fundamental human right. This study critically examines Jordan's constitutional framework, where successive amendments to the 1952 Constitution (2011, 2014, 2016, and 2022) expanded social protections but failed to explicitly enshrine the right to health. The research problem lies in this constitutional silence, which raises concerns about the adequacy of Jordan's legal system in safeguarding public health, particularly during crises such as the COVID 19 pandemic.

Adopting a doctrinal and analytical legal methodology combined with comparative analysis, the study reviews Jordanian constitutional texts, judicial precedents, and legislative obligations, while drawing lessons from international experiences in South Africa, Brazil, Kenya, and Tunisia. Findings reveal that Jordan's constitutional framework

imposes implicit obligations on the state legislative, administrative, and judicial but the absence of explicit recognition weakens enforceability and limits judicial capacity. Comparative evidence demonstrates that explicit constitutional provisions transform health into a directly enforceable right, compelling state accountability and strengthening equity.

The study concludes that Jordan urgently needs constitutional reform to explicitly guarantee the right to health. Practical recommendations are offered to legislators and policymakers to enhance constitutional protection, align with global trends, and ensure institutional cohesion and health equity.

1. INTRODUCTION:

1.1Study Topic: The constitutional recognition of the right to health has become a cornerstone of modern public health governance, reflecting the growing consensus that health is not merely a social good but a fundamental human right. Comparative constitutional scholarship demonstrates that embedding health rights within constitutional frameworks can significantly influence institutional performance and population health outcomes (Kavanagh, 2015; Matsuura, 2012). This recognition is not limited to theoretical debates; empirical studies confirm that constitutional provisions on health correlate with improved health indicators across diverse jurisdictions (Heymann, Cassola, Raub, & Mishra, 2013; Ni et al., 2026).Globally, countries have adopted varied approaches to constitutionalizing health. Kenya's legal and institutional reforms illustrate how universal health coverage can be strengthened through constitutional guarantees (Mbindyo et al., 2020). Similarly, Brazil's fiscal regime has been critically examined in light of constitutional obligations to adequately finance public health policies (Bevilacqua, Soares, & dos Santos, 2020). In Kazakhstan, constitutional provisions have been judicially interpreted to expand citizens' access to health care (Tazhiyeva, Mytalyapova, & Ormanova, 2025). These comparative experiences highlight the dynamic interplay between constitutional law, judicial interpretation, and public health outcomes (Nasution, Syafruddin, & Sihombing, 2023; Chourasiya, 2025).At the same time, scholars emphasize the challenges of constitutionalizing health rights. While constitutional provisions may establish broad guarantees, their implementation often depends on judicial activism, fiscal capacity, and political will (Huo, 2019; Davies, 2022). The judicialization of health care in Latin America, for instance, demonstrates both the potential and the limitations of constitutional health guarantees (Previtali et al., 2024; De Souza Cardoso, 2023). Moreover, constitutional protections must adapt to emerging public health crises, such as pandemics, where emergency laws and privacy rights intersect with health governance (Burkholder, Ross, Vartanyan, & Bergquist, 2021; Chen, 2025).In Jordan, the constitutional amendments of 2011 reshaped the balance of public authorities but did not explicitly enshrine the right to health (Nasrawin, 2013). The COVID-19 pandemic further exposed the gaps in constitutional health protections, as emergency laws were invoked to manage the crisis while raising concerns about privacy and civil liberties (Al-Razouq & Al-Adayleh, 2024; Al-Assaf, 2025). These developments underscore the urgent need to examine how constitutional amendments can strengthen and guarantee the right to public health in Jordan, drawing lessons from global experiences while addressing local challenges. This research therefore seeks to critically analyze the impact of constitutional amendments on the right to public health, situating Jordan within a broader comparative framework. By integrating global literature (Yamin, Bottini Filho, & Gianella Malca, 2024; Dendane, 2024; Hodge et al., 2019; Hodge, 2017) with Jordanian scholarship, the study aims to provide a comprehensive understanding of how constitutional law can serve as a vehicle for advancing public health guarantees. Ultimately, the research contributes to ongoing debates on constitutional cohesion, judicial interpretation, and the practical realization of health rights in both global and Jordanian contexts.

1.2 Study objectives: This study aims to analyze the impact of constitutional amendments on strengthening and guaranteeing the right to public health, with a particular focus on the Jordanian case within a global comparative framework. First, it seeks to examine the Jordanian constitutional texts following the 2011 amendments and assess their adequacy in safeguarding the right to health, especially during public health crises such as the COVID-19 pandemic. Second, the study intends to compare the Jordanian experience with prominent international cases, including Kenya, Brazil, Kazakhstan, and South Africa, which have adopted different models of constitutionalizing the right to health and activating constitutional courts to protect it. Third, the research aims to highlight the role of the Jordanian judiciary in addressing public health issues and evaluate the extent to which its practices align with international standards in protecting social rights. Fourth, it explores the relationship between constitutional provisions and public health policies, and how amendments can contribute to institutional cohesion and health

equity. Finally, the study provides practical recommendations for Jordanian legislators and policymakers to enhance constitutional protection of the right to health, drawing lessons from global comparative experiences, thereby contributing to the development of Jordan's legal system and achieving a balance between constitutional rights and public health requirements.

1.3Importance of the study: The importance of this study lies in analyzing the direct and indirect impact of constitutional amendments on strengthening and guaranteeing the right to public health in Jordan. It does so by examining relevant constitutional provisions, reviewing the obligations imposed on the state, and analyzing judicial precedents that have addressed this right, in addition to comparing Jordan's experience with recent constitutional developments in other countries. Scientifically, the study fills a clear gap in Jordanian legal literature, as the right to health has not been explicitly enshrined despite several amendments since 2011. Practically, it supports legislators and policymakers in adopting clearer and more comprehensive constitutional reforms that enhance the legal system's capacity to respond to health crises such as the COVID-19 pandemic. Judicially, it highlights the role of the Jordanian judiciary in protecting social rights and assessing its consistency with international standards. Ultimately, the study provides practical recommendations that strengthen institutional cohesion and health equity.

1.4 Research Problem: The research problem lies in the absence of an explicit constitutional provision in Jordan guaranteeing the right to public health, despite multiple constitutional amendments since 2011. This absence raises questions about the capacity of the Jordanian constitutional system to protect such a vital right, particularly during health crises such as the COVID-19 pandemic, and about the obligations imposed on the state toward its citizens. According to the World Health Organization (WHO Constitution, 1946), "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being," and the United Nations Development Programmed (UNDP, Human Development Report, 2022) emphasizes that health equity is central to sustainable development. This international recognition highlights the gap in Jordan's constitutional framework and prompts inquiry into the role of the Jordanian judiciary in interpreting existing provisions to safeguard social rights, and the extent to which these interpretations align with international standards and comparative experiences. Accordingly, this study is guided by the following main research question:

To what extent have Jordan's constitutional amendments contributed to strengthening and guaranteeing the right to public health, and what role has the Jordanian judiciary played in protecting this right compared to recent constitutional experiences in other countries?

This main question gives rise to several sub-questions, namely:

- **What are the relevant Jordanian constitutional provisions on social rights, and how can they be linked to the right to health?**
- **What constitutional obligations are imposed on the Jordanian state to ensure the right to public health?**
- **How has the Jordanian judiciary addressed cases related to the right to health, and what are the most significant judicial precedents?**
- **What are the key constitutional experiences in other countries (such as South Africa, Brazil, and Kenya), and how can they inform the Jordanian context?**
- **What practical recommendations can support Jordanian legislators and policymakers in enhancing constitutional and judicial protection of health equity?**

1.5 Study Methodology: This study adopts a doctrinal and analytical legal methodology combined with comparative analysis. The doctrinal approach is applied through a systematic examination of the Jordanian Constitution and its amendments, particularly those enacted since 2011, alongside judicial decisions of the Constitutional Court and Court of Cassation. Analytical legal reasoning is employed to interpret these texts and evaluate their effectiveness in safeguarding the right to public health. Comparative analysis is integrated by examining constitutional experiences in countries such as South Africa, Brazil, and Kenya, which explicitly recognize health as a fundamental right. Data sources include official constitutional documents, judicial precedents, and international reports, notably the WHO Constitution (1946), the UNDP Human Development Report (2022), and the International Covenant on Economic, Social and Cultural Rights (1966). These references provide an international benchmark against which Jordan's constitutional framework is assessed. The methodology thus ensures a rigorous, evidence-based evaluation that links theory to practical outcomes.

2. LITERATURE REVIEW:

Discussing the theoretical and practical approaches that have addressed the issue under study, this section represents a cornerstone of any scientific research, as it focuses on presenting and analyzing previous studies related to the topic.

2.1 National Literature: Jordanian scholarship has addressed the constitutional amendments of 2011 and 2022, yet the constitutional text has not explicitly enshrined the right to health. Nasrawin (2013) analyzed the impact of the 2011 amendments on public authorities without addressing health as an autonomous right. Al-Razouq & Al-Adayleh (2024) examined emergency law during the COVID-19 pandemic, showing how the legal system managed the health crisis from a regulatory rather than constitutional perspective. Similarly, Al-Assaf (2025) focused on privacy rights under pandemic restrictions, reflecting that Jordanian literature has emphasized intersecting rights such as privacy and labor rather than health itself. Analysis: These studies reveal that national literature has not directly linked the absence of constitutional text to the right to health, leaving a gap that requires further exploration, especially in times of public health emergencies.

Health policy literature describes Jordan's health system as professionally and structurally strong, but fragmented, with urban–rural disparities, financial burdens on patients, refugee pressures, and shortages in resources such as nursing and hospital beds (Tamimi, 2024; Abuelhaija, 2023; Alfanash, 2025). Policy studies further highlight the absence of a comprehensive national health policy despite constitutional mechanisms, and note that health information systems remain limited in measuring equity, weakening accountability (Al-Yakoub, 2018; Alnawafleh, 2024). Analysis: This indicates that Jordan's challenge lies not only in the absence of explicit constitutional text but also in the lack of policies and mechanisms that make rights enforceable. Even if health were constitutionally recognized, weak institutional frameworks would hinder equitable outcomes.

2.2 International Literature: International scholarship demonstrates that constitutionalizing health rights produces tangible improvements in public health outcomes. Kavanagh (2015) showed that constitutional provisions positively affect health indicators, while Mbindyo et al. (2020) documented how Kenya's 2010 Constitution launched broad legal and institutional reforms in the health sector. Yamin, Bottini Filho, & Gianella Malca (2024) confirmed that constitutional recognition strengthens governmental accountability, and Matsuura (2012) illustrated how U.S. constitutional commitments historically influenced population health. Analysis: These studies highlight that constitutional texts are not symbolic; they shape health policy and outcomes, underscoring Jordan's gap in lacking explicit recognition.

Latin American studies such as Bevilacqua, Soares, & dos Santos (2020) and De Almeida Nascimento (2019) emphasized constitutional guarantees for adequate health financing and user protection. In Asia, Tazhiyeva, Mytalyapova, & Ormanova (2025) analyzed Kazakhstan's legislative challenges, while Ni et al. (2026) stressed constitutional frameworks for scaling up mental health. Globally, Heymann et al. (2013) reviewed 191 constitutions, finding that explicit provisions enhance health protections, and Burkholder et al. (2021) examined constitutional clauses on emergency care. Analysis: These findings show that constitutional silence weakens institutional and financial commitments, while explicit provisions empower states to respond effectively to health crises.

Further contributions include Chen (2025) and Hodge (2017, 2019), who conceptualized health as a constitutional principle linked to institutional cohesion. De Souza Cardoso (2023) and Nasution et al. (2023) highlighted the role of constitutional courts in enforcing health rights. Chourasiya (2025) argued for expanded judicial interpretation of health as a fundamental right, while Previtali et al. (2024) examined the judicialization of health in Latin America. Dendane (2024) reinforced constitutional protection in contemporary legal scholarship, and Davies (2022) addressed access to medicines through a rights-based approach. Huo (2019) analyzed the impacts of constitutionalizing access to health care. Analysis: These studies confirm that courts are central in operationalizing constitutional health rights. In Jordan, the absence of explicit text limits judicial capacity to protect health as a standalone right.

2.3 Research Gap: Comparative evidence indicates that constitutionalization can drive broad health and institutional reforms, as in Kenya where the 2010 Constitution triggered systemic changes (Mbindyo, 2020). Yet, other studies caution that recognition alone is insufficient; its impact depends on drafting, enforcement, political context, and complementary legislation (Yamin, 2024; Starr, 2022; Lee, 2025). In Jordan, several studies describe a gap between general constitutional provisions and practical enforcement, stressing that rights protection depends more on judicial review, independence of courts, and administrative legality than on textual declarations (Salameh, 2018; Case, 2023). Analysis: The major gap lies in the absence of Jordanian studies measuring the impact of specific constitutional amendments on public health outcomes or access to services over time. Existing literature remains normative, focusing on intersecting rights such as privacy, disability, or emergency governance (Al-Assaf,

2019; Al-Assaf, 2025; Elkhatib, 2021). This makes the present study an original contribution, linking Jordan's constitutional amendments to health outcomes through comparative and doctrinal analysis, while drawing on international evidence that constitutionalization can be transformative when supported by institutional and legislative mechanisms. In order to visualize the distribution of evidence across Jordanian constitutional health issues, the following table summarizes the presence or absence of studies in four dimensions: explicit constitutional recognition of health, case law, emergency applications, and health equity outcomes. This mapping highlights where scholarship exists and where significant gaps remain.

Table1. Evidence gaps across Jordanian constitutional health topics

Subtopic	Explicit Right to Health	Jordan Case Law	Emergency Application	Health Equity Outcomes
Constitutional text in Jordan	2	1	2	1
2011 amendments	2	2	1	GAP
2022 amendments and disability	2	1	GAP	1
COVID-19 emergency governance	1	1	4	1

Note:

- Numbers (1, 2, and 4) indicate the count of studies or references identified in the literature for each dimension.
- 1 = one study available; 2 = two studies available; 4 = four studies available.
- GAP = no studies or evidence found in this dimension.

Analysis: The table demonstrates that while some evidence exists regarding constitutional texts and emergency governance, there is a clear absence of studies measuring health equity outcomes and the long-term impact of constitutional amendments on access to health services. The 2011 and 2022 amendments are discussed normatively, but empirical evidence remains missing. COVID-19 governance generated more literature, yet it focused on emergency measures rather than sustainable constitutional health protections. The largest gap lies in the absence of Jordanian studies that empirically assess how constitutional amendments have influenced public health outcomes over time.

3. CONCEPTUAL FRAMEWORK OF:

The Jordanian Constitution of 1952 and its amendments (2011, 2014, 2016, and 2022) represent the supreme reference for rights and freedoms in the Hashemite Kingdom of Jordan. Its articles (5–23) stipulate a set of social rights such as equality, education, work, and the protection of family, motherhood, childhood, the elderly, and persons with disabilities. However, despite the multiple constitutional amendments published in the Official Gazette, the Constitution does not contain an explicit provision that enshrines the right to public health as an independent right. This makes the right to health implicit, relying on judicial interpretation and legislative obligations of the state. (Source: Constitution of the Hashemite Kingdom of Jordan of 1952 and its amendments, Official Gazette, Issue No. 5770, January 31, 2022, National Library Department, Amman).

The conceptual framework of this study is built upon three interrelated dimensions that demonstrate the relationship between constitutional texts and the right to health:

- Legal Dimension: This includes constitutional texts, judicial review, and legislative obligations. The absence of an explicit constitutional provision for the right to health makes the protection of this right dependent on general judicial interpretations and constitutional oversight of laws.
- Institutional/Administrative Dimension: This covers health policies, financing, and mechanisms of implementation. Jordanian studies point to fragmentation within the health system, disparities between urban and rural areas, and pressures from refugees, and limited health information systems, all of which weaken the ability to translate constitutional provisions into measurable accountability.

- Health/Social Dimension: This focuses on public health outcomes, health equity, and access to services. International evidence shows that constitutionalizing the right to health leads to improved equity and health outcomes. However, Jordanian literature has remained normative and has not empirically measured the impact of constitutional amendments on health indicators over time.

This model illustrates a clear causal chain: Constitutional texts → Legislative and judicial obligations → Health policies → Health outcomes and equity.

Accordingly, the conceptual framework highlights that the absence of an explicit constitutional provision for the right to health in the Jordanian Constitution of 1952 and its amendments represents a fundamental gap. It underscores the need for a comparative study with international experiences, which have demonstrated that constitutional recognition of the right to health can serve as a driver for broad institutional and health reforms.

The figure below represents the conceptual framework triangle for the right to health, illustrating the integrative relationship between the legal, institutional administrative, and health social dimensions. The model shows that constitutional texts generate legislative and judicial obligations, which are then translated into health policies, and these policies directly affect health outcomes and equity. Thus, the figure highlights the gap resulting from the absence of an explicit constitutional provision for the right to health in the Jordanian Constitution of 1952 and its amendments, and emphasizes the need for international comparisons to drive broader institutional and health reforms(Al-Hunaiti, 2025) .

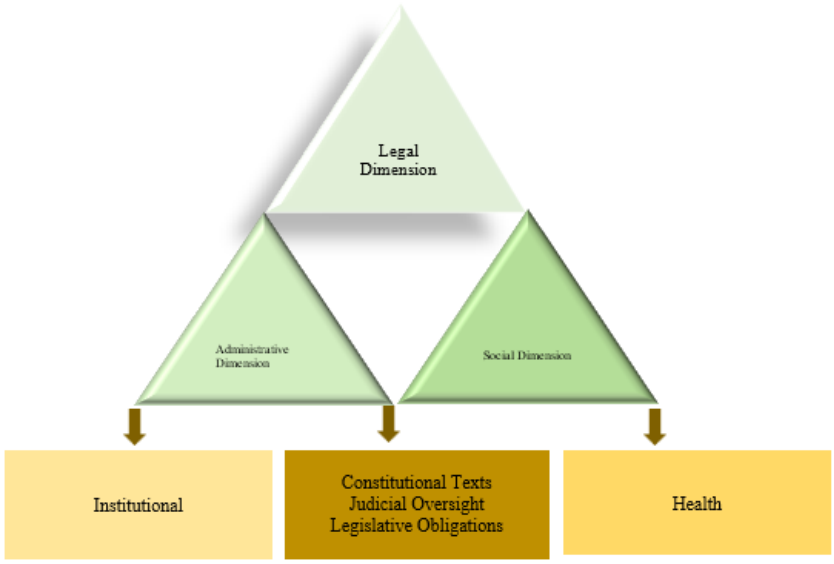

Figure (1): Conceptual Framework Triangle for the Right to Health in the Jordanian Constitution of 1952 and its Amendments

4. THE CONSTITUTIONAL FRAMEWORK OF THE RIGHT TO PUBLIC HEALTH:

The Jordanian Constitution of 1952 and its successive amendments (2011, 2014, 2016, and 2022) constitute the supreme reference for the legal system and define the scope of rights and freedoms enjoyed by citizens. Although these amendments expanded the sphere of social protection to include family, motherhood, childhood, the elderly, and persons with disabilities, the constitutional texts did not explicitly enshrine the right to health as an independent right. Instead, it remains implicit, derived from the principles of equality, the right to life, and human dignity. This explicit absence places a dual burden on constitutional adjudication, which is compelled to derive protection for the right to health from general provisions and to monitor legislation and health policies to ensure their consistency with constitutional principles. It also imposes an obligation on the legislature to incorporate ordinary laws that compensate for this deficiency, by regulating health services, financing, and ensuring equitable access.

Thus, the Jordanian constitutional framework reveals a clear gap between constitutional texts on the one hand and the right to health as a fundamental right on the other. This gap calls for legislative and judicial remedies, as well as comparative analysis

with international experiences that have demonstrated that constitutional recognition of the right to health can serve as an entry point for comprehensive institutional and health reforms.

(Source: Constitution of the Hashemite Kingdom of Jordan of 1952 and its amendments, Official Gazette, Issue No. 5770, January 31, 2022, National Library Department, Amman.), as explained in the following:

4.1 Jordanian Constitutional Provisions Before and After the Amendments: The Jordanian Constitution of 1952 and its successive amendments (2011, 2014, 2016, and 2022) demonstrate a gradual evolution in the system of rights and freedoms. It moved from general provisions affirming equality before the law (Article 6/1) to the inclusion of more specific social guarantees such as the protection of family, motherhood, childhood, the elderly, and persons with disabilities. Nevertheless, the right to health remained absent from the constitutional texts in explicit form, making it an implicit right derived from the concepts of tranquility, equal opportunities, and the right to life and human dignity.

– Article (6/3) of the Jordanian Constitution of 1952 and its amendments: "The State shall guarantee work and education within the limits of its capabilities and shall guarantee tranquility and equal opportunities for all Jordanians." – *(Source: Constitution of the Hashemite Kingdom of Jordan of 1952 and its amendments, Official Gazette, Issue No. 5770, January 31, 2022, National Library Department, Amman.)*

Before the amendments, the Constitution focused on traditional rights such as nationality, equality, defense of the homeland, work, and education. After the 2011 amendments and subsequent revisions, the scope of protection expanded to include new social categories, and additional guarantees of human rights were introduced. This opened the door for broader judicial and legislative interpretation, encompassing the right to health as part of the fundamental rights constitutionally guaranteed. This development reflects a gradual reformist trajectory, but at the same time highlights a clear constitutional gap represented by the absence of an explicit provision on the right to health. This gap calls for legislative and judicial remedies, as well as comparative analysis with modern constitutions that explicitly enshrine this right such as the Constitution of South Africa, the Constitution of Tunisia, and the French Constitution.

4.2Comparison with Modern Constitutions: A study of modern constitutions reveals a growing global trend toward enshrining the right to health as an explicit constitutional right, while the Jordanian Constitution continues to rely on general provisions that can be interpreted to include this right without directly stating it. In the French Constitution (2005), paragraph (11) of the 1946 Preamble, incorporated into the Fifth Republic Constitution, declares: *« La Nation garantit à tous, notamment à l'enfant, à la mère et aux vieux travailleurs, la protection de la santé, la sécurité matérielle, le repos et les loisirs. »* (The Nation guarantees to all, and in particular to the child, the mother, and elderly workers, the protection of health, material security, rest, and leisure). Furthermore, the legislator reinforced this right through the *Code de la santé publique*, Article L1110-1, which states: *« Le droit fondamental à la protection de la santé doit être mis en œuvre par tous moyens disponibles au bénéfice de toute personne. »* (The fundamental right to health protection must be implemented by all available means for the benefit of every person). This reflects a constitutional philosophy that views health not merely as a service provided by the state but as an inherent right imposing positive obligations on public authorities (Heymann et al., 2013; Dendane, 2024).The Tunisian Constitution (2014), Article (38), explicitly provides: *"Health is a right for every human being, and the state guarantees prevention and health care for every citizen."* This direct provision imposes a clear obligation on the state and transforms the right to health into a judicially and legislatively enforceable right, marking a significant shift in Arab constitutional thought (Chen, 2025; Heymann et al., 2013).The South African Constitution (1996), Article (27), guarantees the right to access health services and grants the judiciary the authority to compel the state to provide them. This provision makes the right to health directly enforceable in courts, thereby entrenching the principle of state accountability in delivering health services as part of fundamental rights (Ni et al., 2026; Heymann et al., 2013).The Algerian Constitution (2020) integrates the right to health with other fundamental rights, such as the right to clean drinking water and a healthy environment. This approach reflects a constitutional philosophy that links health to environmental and social rights, underscoring that health cannot be guaranteed without protecting natural resources and the environment (Dendane, 2024).Thus, the comparison between these constitutions and the Jordanian Constitution demonstrates that Jordan lags behind in explicitly enshrining the right to health. This highlights the urgent need for constitutional reform in Jordan to explicitly guarantee this right, aligning with global and regional trends and safeguarding citizens' rights in the face of contemporary health and social challenges.

5. THE OBLIGATIONS IMPOSED ON THE STATE:

The enshrinement of the right to public health in constitutional texts, even indirectly, imposes multiple obligations on the state across the legislative, administrative, and judicial domains. The constitution does not merely proclaim principles; it places upon public authorities a practical duty to transform these principles into tangible realities that guarantee citizens the enjoyment of their right to health. Examining these obligations reveals the seriousness of the state in safeguarding this right and clarifies the interaction between constitutional provisions and health policies. Legislatively, the parliament must enact laws that translate constitutional principles into enforceable rules. In Jordan, Article (6/3) of the Constitution stipulates that the state guarantees tranquility and equal opportunities. This general provision can be interpreted to include the right to health, but it remains less explicit than modern constitutions such as Tunisia's Constitution (2014), Article (38), which states: *"Health is a right for every human being, and the state guarantees prevention and health care for every citizen."* (Chen, 2025; Heymann et al., 2013). Administratively, the executive authority is required to provide health infrastructure and ensure access to services for all citizens, including hospitals, health centers, and qualified medical staff. This obligation extends beyond service provision to include quality control and equitable distribution between urban and rural areas, reflecting the philosophy of the Algerian Constitution (2020), which integrates the right to health with the right to clean drinking water and a healthy environment (Dendane, 2024). Judicially, the judiciary serves as the ultimate safeguard for the right to public health, allowing citizens to challenge any decision or policy that violates this right. In South Africa, Article (27) of the Constitution (1996) guarantees the right to access health services and empowers the judiciary to compel the state to provide them, making the right to health directly enforceable (Ni et al., 2026; Heymann et al., 2013). In Jordan, however, the absence of an explicit constitutional provision forces the judiciary to rely on general principles such as the right to life and human dignity, limiting the effectiveness of judicial oversight.

It is evident that the obligations imposed on the Jordanian state in the field of public health remain limited due to the absence of an explicit constitutional provision, in contrast to modern constitutions that enshrine the right to health directly and bindingly. This underscores the urgent need for constitutional reform to strengthen the right to health and make it judicially enforceable, in line with global and regional trends, and to ensure citizens' rights in the face of contemporary health and social challenges (Alayaydeh et al., 2025).

6. THE JUDICIAL AND PRACTICAL DIMENSION:

The judiciary represents the cornerstone for ensuring respect for constitutional rights, including the right to public health. Constitutional provisions and legislative texts remain mere declarations of intent unless supported by effective judicial mechanisms that compel public authorities to implement them. From this perspective, the judicial and practical dimension demonstrates the capacity of the Jordanian legal system to safeguard public health and highlights the extent of judicial intervention when the executive branch fails to fulfill its obligations. In Jordan, the judiciary has treated the right to health as an extension of fundamental rights such as the right to life and human dignity, relying on broad interpretations of Article (6) of the Constitution to expand protection. However, the absence of an explicit constitutional provision renders this judicial protection limited and weakens oversight compared to countries whose constitutions directly enshrine the right to health. In France, the Conseil d'État reinforced this right by obligating authorities to provide treatment for patients with chronic illnesses based on clear constitutional provisions. In Tunisia, the explicit wording of Article (38) of the 2014 Constitution enabled the judiciary to compel the state to provide essential health services. In South Africa, Article (27) of the 1996 Constitution granted the judiciary direct authority to require the state to deliver health services, making the right to health immediately enforceable. Meanwhile, Algeria's 2020 Constitution integrated the right to health with environmental and social rights, thereby broadening judicial intervention by situating health within a comprehensive framework of fundamental rights.

The Jordanian judiciary plays an important role in protecting the right to health through expansive interpretation of general provisions, yet its effectiveness remains limited compared to systems where constitutions explicitly enshrine this right. Strengthening judicial protection in Jordan requires the inclusion of a clear constitutional provision that empowers the judiciary to act more decisively and provides citizens with a solid legal foundation to claim their health rights.

6.1 The Jordanian Judiciary and the Right to Health: The Jordanian judiciary has dealt with the right to health as part of the fundamental rights linked to the right to life and human dignity. In one of the decisions of the High Court of Justice, the court affirmed that the right to health must be protected. The Jordanian judiciary has treated the right to health as a fundamental right, and its key rulings have demonstrated a broad interpretation of general constitutional provisions to ensure citizens' access to treatment and healthcare, even in the absence of an explicit constitutional text (Duraidi, H. 2023).

6.1.1 The Most Prominent Jordanian Judicial Precedents Related to the Right to Health: If We Take Seen to the Decisions of the Jordanian Court of Cassation The judicial precedents of the Jordanian Court of Cassation demonstrate that the Court adopts an expansive interpretation of constitutional and statutory provisions to practically safeguard the right to health. The Court has held that "administrative refusal to provide necessary medical treatment to a public employee may amount to a breach of the principle of equality and of constitutional duties" (Court of Cassation, Judgment No. 197/2014). Conversely, the Court has also clarified that the High Medical Committee constitutes the technical reference for assessing illness and incapacity, and that the presumption is in favor of the validity of its decisions unless the appellant adduces evidence that undermines them (Court of Cassation, Judgment No. 504/2013).

Taken together, these two lines of precedent establish that administrative authorities possess a technical discretion in assessing medical fitness, yet such discretion is subject to judicial review where there is evidence of deviation or abuse of power. Accordingly, the Court strikes a balance between protecting constitutional rights (notably social justice, equality, and human dignity) and respecting the technical expertise of medical committees.

- The Court has issued rulings obliging the Ministry of Health to provide treatment to citizens who cannot afford it, grounding those obligations in the principle of social justice enshrined in Article 6 of the Constitution.
- In one leading decision, the Court held that an administrative refusal to provide necessary treatment to a public employee constitutes a violation of the principle of equality and an infringement of constitutional duties, thereby reinforcing the incorporation of the right to health into the corpus of protected rights despite the absence of an explicit constitutional provision.

Suggested citation for use in English-language academic work: Court of Cassation (Jordan), Judgment No. 197/2014; Court of Cassation (Jordan), Judgment No. 504/2013.

6.1.2 Administrative Judiciary and the Right to Health: Article (6/1) of the Jordanian Constitution, which states that "Jordanians are equal before the law, with no discrimination between them in rights and duties even if they differ in race, language, or religion," establishes a supreme constitutional principle of equality, dignity, and social justice. This obliges the administration to ensure equal opportunities in access to health services and to treat all citizens without discrimination in the formulation or implementation of health policies. The administrative judiciary relies on this provision when reviewing any administrative decision that has a substantial impact on the right to life or dignity (Jordanian Constitution, 1952, art. 6/1). In parallel, Article (3) of the Administrative Organization System of the Ministry of Health No. 63 of 2008 provides that "the Ministry shall undertake the tasks specified in the effective Public Health Law and draw health policy and set the plans and programs necessary for its implementation," thereby defining the Ministry's direct responsibility for shaping and executing national health policy.

This means that the Ministry is the administrative authority accountable for ensuring the application of equality and non-discrimination in health services, and any failure or negligence in policy-making or implementation may constitute both a constitutional and administrative violation (Administrative Organization System of the Ministry of Health No. 63 of 2008, art. 3). In practice, cases of a purely medical-technical nature are usually referred to the competent medical committees for assessment, while cases involving violations of rights or abuse of power fall under broader judicial scrutiny, where the courts balance technical expertise with constitutional obligations of equality and dignity. Thus, the constitutional text serves as a general principle, while the administrative regulation provides the executive framework that defines administrative responsibility, and together they form the legal foundation for judicial oversight of Ministry of Health decisions, reinforcing the protection of the right to health through a dual constitutional and administrative lens (Rayyan, Hazeem, & Alamawi, 2024).

Judicial review in health-related cases operates on two principal levels. The first is formal review, which focuses on examining the legality of the composition of decision-making bodies, the procedures followed, and the extent to which the administration complies with regulations and instructions. Courts intervene when procedural irregularities or formal violations undermine the principle of legality. The second level is limited substantive review, whereby courts do not interfere with sound medical judgment that falls within the discretionary authority of technical bodies. However, judicial intervention becomes necessary in cases of manifest error in assessment, logical inconsistency in evidence, disregard of conclusive medical proof, or when a decision results in the violation of constitutional rights such as equality, dignity, and the right to health. This balance between formal and substantive review reflects comparative scholarship in health and administrative law, which emphasizes that

administrative courts respect the boundaries of legality without substituting themselves for medical expertise, while ensuring that health-related decisions do not become instruments of discrimination or infringement upon fundamental rights (Gostin, L. O., *Public Health Limits of Medical Freedom*, Journal of Law, Medicine & Ethics, Cambridge University Press, 2023).

6.2 The Role of the Judiciary in Compelling the State: The role of the Jordanian judiciary has not been limited to protecting individuals from arbitrary administrative decisions; it has also extended to compelling the state to provide essential health services. Administrative courts have adopted a broad interpretation of general provisions, relying on constitutional principles such as the right to life and human dignity to expand the scope of health protection, despite the absence of an explicit constitutional provision. Judicial rulings have affirmed that the state is obliged to provide medical treatment and health services to vulnerable groups, in line with the principle of social justice. Protection has also extended to public employees working in the health sector and to patients who cannot bear traditional sanctions. In certain cases, the courts have held that the Ministry of Health's failure to provide medicines or therapeutic services constitutes a breach of legal and constitutional duties, warranting the annulment of administrative decisions and obliging the Ministry to take corrective measures. This judicial role reflects the evolution of Jordanian legal thought toward recognizing public health as a right subject to judicial accountability, rather than merely a political or social commitment. Thus, the Jordanian judiciary adopts a humanitarian approach and a broad interpretation of constitutional provisions, while still requiring an explicit constitutional text to strengthen judicial oversight and guarantee the right to health more effectively.

6.3 International Comparison of the Judiciary's Role in Enforcing the Right to Health: In France, the French Council of State (*Conseil d'État*) has played a prominent role in protecting the right to health, relying on constitutional and legislative provisions that explicitly recognize this right. Paragraph 11 of the Preamble to the 1946 Constitution, annexed to the Constitution of the Fifth Republic of 1958, states: "The Nation guarantees to all, and notably to children, mothers, and elderly workers, protection of health, material security, rest, and leisure. Every human being whom, due to age, physical or mental condition, or economic situation, is unable to work, has the right to obtain suitable means of existence from society." This provision granted constitutional value to the right to health and became the basis for the Council of State's intervention in obliging public authorities to provide treatment, particularly for patients with chronic illnesses, considering refusal to do so a violation of the constitutionally guaranteed right to health (Heymann et al., 2013).

In Tunisia, the 2014 Constitution explicitly enshrined the right to health in Article 38, which states: "Health is a right for every human being. The state shall ensure prevention and healthcare for every citizen." The same article obliges the state to provide free treatment for orphans and low-income individuals and guarantees the right to social coverage. This explicit constitutional text enabled the Constitutional Court to compel public authorities to provide essential health services and to consider any failure to do so a direct constitutional violation (Chen, 2025).

In Jordan, by contrast, there is no explicit constitutional provision recognizing the right to health. The judiciary has relied on a broad interpretation of general provisions such as Article 6/1 of the Jordanian Constitution, which affirms equality and human dignity, to expand the scope of health protection. In decisions such as Administrative Court Decision No. 661/2023, the judiciary obliged the Ministry of Health and administrative bodies to provide medical treatment and health services, grounding its reasoning in principles of social justice, the right to life, and human dignity.

This comparison demonstrates that in countries where constitutions explicitly enshrine the right to health, the judiciary enjoys stronger and clearer authority to compel the state to act. In Jordan, however, the judiciary remains dependent on broad interpretation of general constitutional principles, underscoring the need for an explicit constitutional provision to enhance judicial oversight and ensure the right to health more effectively. It is evident that the Jordanian judiciary has played an important role in protecting the right to public health by broadly interpreting constitutional provisions and obliging the state to provide essential health services. However, the absence of an explicit constitutional text weakens the strength of judicial oversight compared to countries whose constitutions directly enshrine the right to health. Therefore, strengthening this right requires the inclusion of a clear constitutional provision that enables the judiciary to exercise its role more effectively and provides citizens with a solid legal basis to claim their health rights .It is evident that the Jordanian judiciary has played an important role in protecting the right to public health by broadly interpreting constitutional provisions and obliging the state to provide essential health services. However, the absence of an explicit constitutional text weakens the strength of judicial oversight compared to countries whose constitutions directly enshrine the right to health. Therefore, strengthening this right requires the inclusion of a clear constitutional provision that enables the judiciary to exercise its role more effectively and provides citizens with a solid legal basis to claim their health rights (Duraidi, 2023, p. 15; Jordanian Constitution, 1952, Article 6/1).

7. CONCLUSION AND RECOMMENDATIONS:

This section summarizes the research efforts, aiming to present the study's main findings and highlight its theoretical and practical implications. It also includes recommendations for legislators, judges, and administrative bodies. **7.1Conclusion:** This study has examined the impact of constitutional amendments on strengthening and safeguarding the right to public health by analyzing the Jordanian constitutional framework, the obligations imposed on the state, and the judiciary's role in protecting this right, in addition to comparing Jordan's experience with selected international cases. The findings reveal that, despite significant amendments, the Jordanian Constitution does not explicitly enshrine the right to public health. Instead, it affirms general principles such as equality, human dignity, and social justice, which can be interpreted to encompass this right.

The research further demonstrates that the Jordanian state bears legislative, administrative, and judicial obligations to guarantee the right to health, and that the judiciary has played an important role in protecting this right through broad judicial interpretations, despite the limited constitutional provisions. In comparison with modern constitutions such as Tunisia's 2014 Constitution and South Africa's 1996 Constitution, it becomes clear that explicit constitutional recognition of the right to health grants the judiciary stronger authority and enhances citizens' ability to claim their health rights.

Accordingly, the practical impact of Jordan's constitutional amendments remains limited and requires further development to ensure the direct and effective entrenchment of the right to public health.

7.2Recommendations: This section represents a natural extension of the findings of the study, moving from theoretical analysis and practical comparison to the formulation of practical and legislative proposals that can contribute to the development of the legal and institutional framework. Accordingly, the importance of presenting a set of recommendations emerges as a means to enhance the effectiveness of the legal system in this field, which may be outlined as follows:

- Explicit Constitutional Recognition and Judicial Oversight Introduce a clear constitutional provision in the Jordanian Constitution that explicitly recognizes the right to public health as a fundamental human right. Such recognition would empower the judiciary to compel public authorities to provide essential health services and strengthen citizens' ability to claim their health rights.
- Development of Health Legislation and Expansion of Insurance Coverage Reform and update the Public Health Law and health insurance legislation to ensure comprehensive coverage for all social groups, particularly those least able to afford treatment costs, thereby promoting equality and justice in access to healthcare (Alayaydeh et al., 2024).
- Infrastructure Improvement and Quality Control Enhance healthcare infrastructure and ensure equitable distribution of services across all governorates. Strengthen oversight of the quality of healthcare services, medicines, and vaccines by activating regulatory institutions and modernizing relevant legislation.
- Learning from International Experiences Draw on successful international experiences, such as Tunisia and South Africa, where constitutions explicitly enshrine the right to health. Adopting similar approaches would help Jordan develop more effective health policies and reinforce the legal system's capacity to protect public health sustainably.

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