

# United Nations Human Rights Commission

Report on responses to the list of issues related to the Fifth Periodic Report on Jordan by the International Covenant for Civil and Political Rights, adopted by the Human Rights Commission in its Session Number 119 (29 - 6 March, 2016)



Presented by a Group of Jordanian Civil Society Organizations by the name of "Eye Jordan" to the Commission in Accordance with the Article 40 of the Covenant.

CCPR - International Covenant on Civil and Political Rights  
121 Session (16 Oct 10 - 2017 Nov 2017)

The Fifth Periodic Reports by Member Countries due for Submission in October 2014



## **United Nations Human Rights Commission**

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## Introduction

Emanating from the role of the Jordanian Civil Society in protecting and reinforcing human rights, and its accumulated experience in monitoring and observing the state of human rights in Jordan, and based on article 40 of the International Covenant for Civil and Political Rights, which requires states to submit their reports on the extent to which they have implemented the Covenant, 10 Jordanian organizations formed the coalition "Eye Jordan" and worked on preparing this report to respond to the list of issues sent by the committee, and to provide the committee through this report with detailed information on the extent to which Jordan committed to the Covenant's articles in general.

Organizations participating in the preparation of this report:

1. Center for Defending Freedom of Journalists<sup>1</sup>
2. Adala Center for Human Rights Studies<sup>2</sup>
3. Al-Finiq Center for Economic and Informatics Studies<sup>3</sup>
4. Tamkeen Fields of Aid Center<sup>4</sup>
5. Justice Center for Legal Aid<sup>5</sup>
6. The Sisterhood is Global Institute<sup>6</sup>
7. Rasheed Transparency International - Jordan<sup>7</sup>
8. Al-Hayat Center for Civil Society Development<sup>8</sup>
9. Arab Renaissance for Democracy and Development (ARD)<sup>9</sup>
10. Partners Center - Jordan<sup>10</sup>

It is noteworthy that the National Committee for Women's Rights<sup>11</sup> had participated in the meeting and expressed its point of view in issues related to women's rights. The Jordanian organizations participating in preparing this report also note that the government did not consult in advance with civil society organizations when it prepared its official report. The government's report was viewed on the committee's website concerned with the civil and political rights, after the government submitted its report to the committee.

It is important to mention in this introduction that Jordan has witnessed significant transformations in regards to its respect of commitments stated in the International Covenant for Civil and Political Rights covered by the report. Jordan went through the circumstances of what is called the "Arab Spring," and the accompanying widespread popular movements of various political powers, civil society institutions, and social

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<sup>1</sup> <http://cdfj.org>

<sup>2</sup> <http://www.worldcoalition.org/Adaleh-Center-for-Human-Rights-Studies19337.html>

<sup>3</sup> <http://www.phenixcenter.net/en/home>

<sup>4</sup> <http://tamkeen-jo.org>

<sup>5</sup> <http://www.jcla-org.com/en>

<sup>6</sup> <http://www.annalindhfoundation.org>

<sup>7</sup> <http://transparency.jo/Default.aspx?Lng=2&P=H>

<sup>8</sup> <http://www.hayatcenter.org>

<sup>9</sup> <http://ardd-jo.org/legal-aid>

<sup>10</sup> <http://www.partners-jordan.org>

<sup>11</sup> A national semi-government institution involved in women affairs <http://www.women.jo>

forces, known as "the popular movement," demanding comprehensive reforms in Jordan, especially at the level of reinforcing public freedoms and combating corruption. This led to amending the Jordanian constitution in 2011, including some good amendments at the level of human rights and identifying the authority of the executive power. These amendments, however, did not reflect on the government's legislations, policies, and practices. A number of legislations continue to restrict public freedoms, and the judiciary continues to be non-compliant with international human rights standards in its decisions. There are human rights violations especially in public freedoms, which render Jordan's commitment to the Covenant articles limited in terms of respect and protection.

It is noteworthy that the government launched the comprehensive national human rights plan for the years 2016 - 2025. Although preparing it was done through government institutions and the civil society was not directly involved in the preparation process, and despite the fact that it took 10 years to prepare, we still hope that it will be implemented at the closest opportunity.

The coalition "Eye Jordan" hopes to act effectively with the mechanisms of the Human Rights Committee and the United Nations where there are interests in strengthening human rights in Jordan and in the world.

Eye Jordan will continue the tasks of the Special Secretary of the Center for Defending the Freedom of Journalists called for, coordinated, and undertaken since October 2016.

## **1. Response to the List of Issues Related to the Fifth Periodic Report on Jordan**

### **1.1. The Constitutional and Legal Framework through which the Covenant will be Implemented (Article 2)**

#### **1.1.1. Issue 1: The Practical Implementation of the Covenant Provisions in the Internal Legal Regulation**

1.1.1.1 The constitution does not stipulate clearly that international human rights conventions take precedence over local legislation. The judiciary continues to fail to comply with international human rights standards in its decisions. Although the national judiciary approved years ago through the Court of Cassation that international conventions transcend national legislation, the national judiciary is implementing national legislations which contradict Jordan's commitment according to human rights conventions. Furthermore, there are special courts such as Sharia courts and the State Security Court that do not implement or commit to human rights standards based on human rights conventions. Meanwhile, there are human rights violations, especially regarding public freedoms, which could lead to considering Jordan's commitment to the Covenant's articles limited at the level of respect and protection of the Covenant.

1.1.1.2 Despite amending article 128 of the constitution in 2011, which stipulates: 1. The laws issued by virtue of this Constitution to regulate

the rights and freedoms shall not impair the substance of these rights or affect their fundamentals. 2. All laws, regulations and other legislative acts in force in the Hashemite Kingdom of Jordan on the date on which this Constitution comes into force shall continue to be in force until they are repealed or amended by the legislation issued thereunder within a maximum of three years. The implementation of this article, however, is still far away from reality, whereby the laws issued after this amendment still assault the core of human rights. Furthermore no amendments were made to the legislations that preceded this amendment in order to make them compatible with human rights, as was stated in paragraph 2 of article 128. This will be interpreted later in the clarifications we will mention in the rest of the articles in this report.

### **1.1.2 Issue 2: National Human Rights Center**

1.1.2.1 Regarding the establishment of the National Human Rights Institution, the parliament is currently looking into the amendments to the Human Rights National Center Law. The Council adopted the required recommendations to establish the Council transparently. There is a debate, however, regarding the involvement of civil society institutions in the Center's composition. We recommend the need for the law to stipulate the participation of civil society institutions in the Center's membership.

1.1.2.2 Furthermore, the National Human Right's Center's budget is still limited to \$1 million, which covers administrative expenses and is not sufficient for the activities' expenses. In addition, the Center's location is in the capital of Amman only, with no branches in the other governorates and cities of Jordan, and with about 40 staff members, which is not sufficient.

1.1.2.3 Although the Center's recommendations issued in its annual reports are serious and important recommendations, those implemented by the government are very limited, especially at the legislative level (including the Center's recommendations regarding the freedom of opinion and expression, the right to association and peaceful congregation, holding human rights violators accountable, education, and administrative detention in specific.)

## **1.2. Non-Discrimination and Equality between Men and Women (Articles 2, 3, 23, 24, and 26)**

### **1.2.1. Issue 3: National Legislation and Plans for Non-Discrimination against Women**

1.2.1.1. The Jordanian constitution *guarantees rights for all Jordanians only*, as is mentioned in the section on the rights and duties of Jordanians. The constitutional amendment of 2011, however, did not clearly and openly stipulate equality if Jordanians were different in sex, as it



stipulated in regards to knowledge, language, or religion.<sup>12</sup> This reflected on many issues related to women enjoying equality, especially depriving them of citizenship for their children. Furthermore, there is no law that includes clear and explicit texts that address the prevention of discrimination against women, criminalize this act and enable women to resort to the law in case of discrimination against them. The constitution does not identify the status of international conventions ratified in the national legal system, and there is no comprehensive legislation regarding equality between sexes. No comprehensive measures were developed to confront all forms of discrimination against women and girls and to facilitate their effective access to justice, equality, and equal opportunities.

1.2.1.2. Women in Jordan continue to face numerous challenges, and anyone monitoring this reality will find that there are numerous items in international conventions concerned with human rights that are still far from activation on the ground. Furthermore, international reports published on development indicate that Jordan retreated on the Global Gender Gap Indicator over the past 10 years, at the rate of 1%, according to the World Economic Forum Report 2015. Jordan assumed the second position after Saudi Arabia in the number of legal differences between the sexes in the field of the economic participation of women, according to the World Bank Report "Women, Business, and Legislations" for the year 2016.

1.2.1.3. At the level of economic participation of women urgent and effective measures should be taken to reduce unemployment and poverty among women, and to end the "feminization of poverty" phenomenon. When forming councils and agencies, the national mechanism concerned with women affairs (the Jordanian National Committee for Women Affairs) is not represented in its membership to be an effective partner when discussing economic policies and programs and development plans in various sectors, and to identify the main obstacles facing economic growth, and to highlight these chronic problems seriously at the highest levels. If such problems are treated, they would result in a quantum leap in the national economy, especially that Jordan is last in the rate of women's economic participation within the Mediterranean and North Africa. . The same applies to the low rate of women's participation in official committees in the state authorities, including higher education councils, universities' boards of trustees, and companies' boards of directors. The outcomes of education must also be reviewed, especially for women, in: connecting them to the job market requirements; providing work opportunities for young women; encouraging agricultural credit establishments to extend agricultural loans to women, particularly rural women; facilitating the procedures

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<sup>12</sup> Article 6 of Section 2 of the Jordanian constitution: "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion."

for obtaining loans and bridging the gap between the loan values granted to women and those granted to men; encouraging the private sector institutions to provide soft loans to women to finance their small projects' facilitating the loan-granting process and guarantees; encouraging investment and starting new investment projects in various governorates; supporting women participation and providing work opportunities for them in their areas and governorates; increasing their participation in the tourism sector, as this participation is currently very low (at 10% only); working at increasing female representation in economic decision-making positions, such as the Central Bank, the Ministry of Finance, the Securities Commission, Amman Stock Exchange, saving funds, and others; exempting economic projects run by female heads-of-households from taxes and fees and encouraging them to carry out their duties towards their families (there are 249,000 families headed by women); providing a women-friendly environment at the workplace, making such workplaces free of violence and harassment; providing nurseries and equal pay for equal-value jobs; providing equal training and rehabilitation opportunities and easy public transportation means; reconsidering the texts of labor laws, social security, civil retirement, and a host of other laws regarding women rights to remove all forms of discrimination and inequality; and to close the wage-gap in wages and retirement benefits; and involving women and the national mechanism concerned with women affairs in any committees or work groups studying and reviewing legislations and proposing suitable amendments to them.

1.2.1.4. Within the framework of sustainable development, after approving the sustainable development goals 2030, Jordan is invited with other countries to implement the sustainable development plan 2030 in terms of preparing the suitable environment for implementation, taking gender into account through identifying and supporting the favorable circumstances to achieve equality between the sexes and empower women and girls, and the need to speed up the resulting process of implementing international commitments at the legislative, policy, or practical level, and in various fields, including the economic, as well as the need to truly involve women in any meetings or work teams to set the executive plan for the purposes of sustained development 2030. Women should have an effective role in various committees and national work teams which address various political, social, economic, and cultural aspects.

1.2.1.5. Regarding domestic workers, they face many nebulous problems that encompass the government, employment offices, employers, and the workers themselves. In spite of the previous efforts to overcome all obstacles and challenges, domestic workers are still under a great deal of violations that could reach quite often the level of human trafficking. Hence, it is important to give attention to the issue of domestic workers and find a comprehensive and complete solution to this important problem. We call on the Jordanian government, as one of the countries

that receives domestic labor, to be the first Arab country to ratify the agreement number 189, "the Convention Concerning Decent Work for Domestic Workers," and recommendation number 201 complementing it, to protect all parties represented by government parties, employment offices, employers, and domestic workers, and in particular female domestic workers, especially so that the convention for Jordan becomes applicable one year after it is authorized. The agreement itself entered the domain of implementation in September 2013.

## **1.2.2 Issue 4: Civil Status Law and the Measures Taken for Equality between Men and Women**

1.2.2.1 There are legislative challenges within the framework of responding to recommendation number 4 of the list of issues. The protection from Domestic Violence draft law must be ratified, since the protection from Domestic Violence Law for the year 2008 is not implemented. Among the measures to be taken to amend it are:

1.2.2.1.1 Amend the Civil Status Temporary Law number 36 for the year 2010 so that it does not exclude the DNA test as a conclusive evidence of parenthood. The amendment should also address joint custody of children between both parents and consider the mother's custody on her children assumed, raising the minimum marriage age in cases with exception to the original bar, which is 16 years to 18 years at least, to accommodate the end of the mandatory education stage, in accordance with the provisions of the Labor Law which specified 16 years as a minimum age for work. Another point is raising the compensation for arbitrary divorce, which now includes three years' alimony. The compensation must be compatible with the marriage period, by approving the right to pursue the guarantee of the woman's right to her share of the money derived during the married life for the husband and wife as a result of their efforts, work, and joint contribution in cases of divorce and death, and before distributing the inheritance to the heirs.

1.2.2.1.2 Acknowledge the right of women, if unsatisfied with her marriage, to request damages in the case of her husband marrying another woman based on the woman's right stipulated in the law in adding an item to her marriage stipulating that her husband cannot have a second marriage.

1.2.2.1.3 Guarantee the right of a widow/widower to continue living in the married couple's house and the right to maintain its assets for use until his/her death unless he or she gets married.

1.2.2.1.4 Make the custody and guardianship joint between the guardian and the mother with custody to facilitate the requirements of education, treating the children in custody and nurturing them in the absence of the other party (article 123 of the Civil Law and 233 of the Civil Status Law), in addition to amending the provisions related to the requirement of mandatory custody, so that the daughter's children

benefit from the grandfather's inheritance, just like the sons and daughters of the son.

- 1.2.2.1.5 It is noteworthy that the percentage of marriages under the age of 18 is 12-14% in Jordan, which requires reconsidering the instructions of granting permission for marriage for those below 18 years of age. Marriage should be strictly prohibited if both the bride and groom are less than 18 years of age.

### **1.3. Violence against Women, Including Domestic Violence (Articles 2, 3, 7, 26)**

#### **1.3.1. Issues (5, 6, 7): Measures Taken to Combat Violence against Women, Detaining Women Subjected to Violence, and Honor Killings**

- 1.3.1.1. Regarding violence against women and girls, we demand the following specifically:
  - 1.3.1.1.1. In the field of Legislation, the government's amendment of article 308 of the Penal Code, regarding a woman who was raped marrying her rapist, thus dropping the charges against him, should be totally repealed to achieve criminal justice for women and end the policy of impunity.
  - 1.3.1.1.2. Confront the increase in crimes against women, especially family crimes and crimes with the excuse of "honor," by repealing article 308 and 340, and amending the texts of articles 97, 98, and 99 of the Penal Code.
  - 1.3.1.1.3. Limit the administrative detention of women (69% of women detained are administratively detained) and search for other non-freedom-depriving means for protecting them. However, a regulation was issued for women exposed to danger in 2016 on 1/12/2016, comprising highly efficient and effective protection and safety measures from violence for women, for the purpose of providing temporary protection and shelter to the beneficiary until her problem is solved or the danger is alleviated. The regulation, however, suffers from many gaps, and it is important to provide a sufficient number of shelters for the victims of domestic violence and their accompanying children.
  - 1.3.1.1.4. Zero tolerance for sexual harassment and assault, especially in public places and transportation. There is no definition of sexual harassment in its comprehensive concept in the laws, which do not stipulate penalties, or protection from domestic violence. There are no texts that deal with harassment directly, in spite of the serious nature of this phenomenon, which represents an obstacle for women to live their daily lives. There are numerous forms of harassment, including verbal, which are outside the circle of criminalization.
  - 1.3.1.1.5. Provide a safe haven for women who were subjected to violence.
  - 1.3.1.1.6. Adopt prior and post rehabilitation programs for the residents of the reform and rehabilitation centers, to reintegrate them into their local communities.
  - 1.3.1.1.7. De-criminalize abortion in all cases, especially in the initial days of pregnancy. Many lives of women who were raped or subjected to

incest were lost because they resorted to unsafe methods of abortion without medical supervising.

- 1.3.1.1.8. Texts of the law must reflect an advanced perspective for adopting a concept of reeducation and upbringing as a right of the child that should be practiced according to the most recent relevant literature. The law must not permit beating as a means to discipline children as was stated in article 62 of the Penal Code.
- 1.3.1.1.9. The Passports Law and its amendments for the year 1969 did not include any discrimination in its texts, but the actual practices on the ground discriminate between the parents and restrict the right to apply for a separate passport for children, or to renew an existing passport, to the father without the mother. Many times, these practices led to oppressed families especially when one of the parents works abroad.
- 1.3.1.1.10. Regarding refugee women and women from the host communities, refugee women suffer from numerous problems that reflect on, and the effects of which extend to women in the host communities (Jordanian women). Confronting these problems is through finding solutions to the refugee women's health, social, legal, and economic issues. We demand that this group of women be given the necessary attention and care and that the appropriate solutions be found for their problems, which reflect on women in the host communities.

#### **1.4. Anti-Terrorism Measures (Articles 4 and 9)**

##### **1.4.1. Issue (8):**

- 1.4.1.1. The Anti-Terrorism Law was amended according to the amended law number 18 for the year 2014. The law's provisions were loose with wide terms for criminalization. The law also included acts of theft, encroachment on wealth and property, and the use of the internet. This law also represents a violation of a number of rights, including the right to the freedom of movement, privacy, and proof of innocence. Article 4 of the law permitted the surveillance of the locations and movements of suspects, monitoring their communications and arresting them.
- 1.4.1.2. Furthermore, the Anti-Terrorism draft law expanded its authorities in issuing arrest warrants for suspects or attempts of committing terrorist acts, and to detain them pending referral to public prosecution, without allocating a time ceiling for that. It granted the security systems the authority to transfer these people to the administrative ruler or the public prosecutor and without allocating a specific time ceiling.
- 1.4.1.3. Then came the Anti-Terrorism Law number 55 for the year 2006 and its amendments, which expanded the concept of terrorist acts according to article 2, contrary to article 147 of the Penal Code. This expansion causes a conflict in the legislative system when applying the penalty clauses, which represents a source of inequality among those addressed by the legal foundation context, and also ignores the

principle of the criminal intent, which permits the judge to apply the legal texts to crimes, and to attribute the description of terrorism for a suspect on normal acts that do not necessarily represent acts of terrorism. This method contradicts international standards which guarantee fair trials and that individuals will not be pursued for crimes unless there is evident criminal intent. It is also used as a means to restrict freedoms as a result of the potential for committing a crime, especially regarding the activities of journalists and political activists.

## **1.5. The right to Life, Prevention of Torture and Other Treatment or Forms of Harsh, Inhuman, or Degrading Punishment and the Right to Effective Treatment (Articles 2, 6, 7)**

### **1.5.1. Issue (9): Laws related to the use of force and the measures taken to deal with torture:**

1.5.1.1. In spite of listing the concept of torture mentioned in the Convention in article 208 of the Penal Code and raising the minimum limit of penalty from 3 to 6 months, this text is not sufficient to prevent torture, which is contrary to what the international community agreed on as a serious crime that requires a deterrent punishment. It did not reach the level of ambition, since this crime is still considered a misdemeanor, contrary to the anti-torture convention, when it should be penalized as a crime. Furthermore, this penalty still has a statute of limitation and is subject to a public and private amnesty, contrary to the texts stated in the Anti-Torture Convention, outlining torture as a serious crime that is not subject to statute of limitation and is not subject to pardon.

1.5.1.2. Regarding impunity for perpetrators of torture, this report summarizes the following:

1.5.1.2.1. Many civil society institutions and the national Human Rights Center monitored numerous complaints from detainees and their families indicating that they were subjected to torture or abuse during arrest or detention, however, until now, investigations carried out by officials authorized to investigate these allegations did not result in anything or in referrals to regular courts. In most cases, investigating parties resort to adapting the act to other legal descriptions, such as harm, threats, violating orders and instructions, or beating resulting in death. As an example, in the cases referred to the police court for alleged torture resulting the death of detainee "Sultan Al-Khatatbeh," and the case of victim "Omar Al-Nasr," both being pursued by ADALA Center for Human Rights Studies through its lawyer, more than three years have passed since addressing Sultan Al-Khatatbeh's case have passed, and the case of victim Omar Al-Nasr, who died on 30/9/2016, are still subject to the same procedures of extending the trial in spite of a clear text in article 7 of the Military Criminal Court Procedures Law stipulating that: "the court sessions shall be held in successive days and delays shall not be permitted for more than 48 hours except if necessary and for reasons to be stated in the delay decision." This text, however, is also not implemented, which is considered a

violation of the main commitment requiring that the investigation of committing torture be addressed urgently. In addition, and in the case of the victim Abdullah Al-Zou'bi, the victim's body was found to have bleeding lesions on the head, abdominal muscles, the colon, and the testicles, which are compatible with the bruises described in the virtual examination. Those bruises were concurrent and estimated to be 24 - 28 hours old, according to the judicial medical report number (2015/161/1.م.ط.ش) and the time of death on 2/5/2015, issued by the forensic science report / north region. The forensic medicine report arrived at the conclusion that there were torture signs on the various and sensitive areas of the victim's body. Based on information from the victim's family, the government, through the governor of Irbid, offered to pay the amount of JD100,000<sup>13</sup> as an unannounced compensation to the victim's family, dropping their personal right against the perpetrators. Although this kind of behavior represents a form of secret reconciliation, representing partial retribution, such practices may prevent the actual pursuit of the torture perpetrators.

- 1.5.1.2.2. Numbers of cases recorded in the torture register for the years 2013 - 2014 - 2015 according to the public prosecution records as received from the Ministry of Justice, reached a total of 33 cases, with the absence of any statistics as to the number of cases addressed or referred to the court of jurisdiction. It is noticeable that these numbers are not compatible with the number of complaints and notifications received by civil society institutions and the National Center for Human Rights.
- 1.5.1.2.3. Among the indications of impunity for torture perpetrators is the absence of serious pursuit in many cases referred to by the Jordanian judiciary, voiding affidavits and testimony obtained by coercion in many decisions. These provisions, however, did not include any reference to the need for prosecuting the perpetrators of these actions (the persons who carried out the interrogation), which reinforces the images of impunity of torture perpetrators.
- 1.5.1.2.4. In order to guarantee the effectiveness of prosecution and conviction in torture crimes and allegations, investigation and decision in the commitment of torture should be done within investigation agencies that are independent from the alleged perpetrators, in order to ensure the prosecution of torture crimes and abuse in all circumstances and conditions, and avoid failure to implement the special laws for torture crimes' perpetrators. The medical examination may help impunity for torture perpetrators, which is what happened in some cases on the ground when doctors performed the routine tests on detainees with security parties. The doctor provides the necessary treatment for detainees but without documenting the injuries and the case as a whole in detail and accurately, recording the testimony away from the security men. The

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<sup>13</sup> About \$143,000 or 130,000 Euros.

report prepared is submitted to the party that brought the detainees. These reports should be submitted to a neutral and independent party. The assault cases against doctors were documented by public security systems, as well as non-documentation cases of torture allegations in hospitals and some reform and rehabilitation centers.

- 1.5.1.2.5. Many torture methods used at the anti-drug and counterfeiting administration in Jordan are very painful but do not leave traces on the victim's body, such as electric shocks, sleep deprivation, and positions causing fatigue, such as suspension, kneeling, or bending for extended periods of time. It is difficult for victims to prove they were tortured due to long detention periods in isolation from the outside world and without the potential for calling doctors, lawyers, or family members who can support the victims or collect evidence, delaying the possibility of having them see a doctor in most cases.
- 1.5.1.2.6. The request to use the expertise of forensic medicine is subject to the discretion of the police, public prosecutors, and judges, and the request is rejected in most cases. In cases of death, the autopsy refers to the cause of death only, without referring to other causes or signs on the victim's body. This forms an obstacle that prohibits proving the crime of torture.
- 1.5.1.2.7. Regarding the state's duty to offer a fair and appropriate compensation to torture victims, this report summarizes the following:
  - 1.5.1.2.7.1 Rarely do victims go to the judiciary requesting compensation for torture or inhuman treatment they were subjected to at the hands of officials, whether in criminal description as stated in the Anti-Torture Convention or the description stated in the Penal Code mentioned above. This is due to a number of reasons, mainly:
    - 1.5.1.2.7.1.1 Even in cases where those who committed torture are prosecuted, they are tried before special courts (Police Court) that do not hear compensation cases (individual right litigation) in cases they address.
    - 1.5.1.2.7.1.2 The national legislations do not recognize the responsibility of the state for torture and abuse. Article 5 of the Government Lawsuits Law, by exclusively specifying cases where the government can be sued, prohibits raising compensation lawsuits resulting from a criminal act committed by one of its employees.
    - 1.5.1.2.7.1.3 The difficulty of proving that torture took place and that its perpetrator carried it out, in order to identify responsibility, represents an additional obstacle before demanding compensation.
    - 1.5.1.2.7.1.4 The laws governing the work of the judiciary do not permit the prosecution of judges and public prosecutors for mistakes and violations committed in the line of duty, such as arbitrary detention, failure to inspect prisons and



detention centers, or failure to raise a public right lawsuit in torture and abuse crimes they come to know about, as well as other practices of justice mismanagement.

1.5.1.2.7.1.5 Furthermore, the miniscule amount of compensation that courts have customarily granted when the complainant or the victim is suing for individual right in crimes against individuals represents an additional obstacle confronting the right to demand compensation for torture practice where compensation should be just and sufficient to redress the damage.

1.5.1.2.7.1.6 The slowness of court procedures and fees and charges for demanding compensation represent a serious obstacle due to the limited financial capacities of the torture victims.

1.5.1.2.7.1.7 Unofficial statistics also indicate that the death rate in detention centers and prisons is high, although the reasons for death are due to health reasons, as officials claim. This is indicative of the poor healthcare provided to these inmates and detainees in these centers overseen by the Public Security Directorate.

## **1.5.2. Issue (10): Visiting Detention Centers**

1.5.2.1. Regarding access to detention locations, in spite of the fact that some local civil society institutions and some international agencies are allowed to visit reform and rehabilitation centers, there are legislative and practical difficulties facing local civil society institutions in making these visits effectively and regularly, including obtaining a permit in advance. Furthermore, these visits carried out by these institutions are restricted to reform and rehabilitation institutions and not temporary detention facilities. We would like to point out here that ADALA Center for Human Rights Studies has submitted many applications to visit a number of reform and rehabilitation centers, but was not allowed to make any visits since 2013, without any justifications or reasons for this rejection, in spite of prior arrangements with officials in this respect. Visits carried out by the National Human Rights Center are still carried out according to agreements or memoranda of understanding between the National Human Rights Center and the Public Security Directorate, without a clear text that permits visiting reform and rehabilitation centers and temporary detention centers, without prior notification of these visits. The military reform and rehabilitation center and detention facilities affiliated with the Armed Forces General Command are visited openly and with prior arrangements.

## **1.6. Voluntary Termination of Pregnancy (Articles 3, 6, 7, 17, 26)**

### **1.6.1. Issue (11):**

1.6.1.1. The Jordanian Penal Code number 16 for the year 1960 and its amendments addressed the issue of abortion crime in its articles 321 -

325, and considered abortion a punishable crime, whether it took place by the pregnant woman herself or by someone else. The law did not address any exception whereby abortion is permitted, contrary to a number of Sharia Fatwas in Jordan, which permitted abortion in specific cases. Article 12 of the Public Health law stipulates that abortion is permitted if the woman's health is at risk, or if her pregnancy exposes her to the risk of death. According to government statistics, the number of women who were punished for the crime of abortion according to the Ministry of Justice since 2009 until 2016 was 49 women. Broken by year, 3 women were punished in 2009, 3 in 2010, 2 in 2011, 5 in 2012, 7 in 2013, 12 in 2014, 11 in 2015, and 6 in 2016.

- 1.6.1.2. In contrast, the Jordanian Penal Code does not have any text that permits abortion. A woman who aborts herself or accepts that anyone else uses any means to abort her fetus is to be sentenced to prison from 6 months to 3 years (article 321). Anyone who performed an abortion for a woman with her consent is imprisoned from 1 to 3 years (article 322/1). If the abortion led to the death of the woman, the person aborting her is punished by temporary hard labor for a minimum of 5 years (article 322/2).
- 1.6.1.3. The Penal Code also punishes anyone who intentionally caused the abortion of a woman without her consent with a maximum of 10 years in hard labor (article 323/1), and a minimum of 10 years if the abortion led to her death (article 323/2). The penalty is raised by one third if the perpetrator of this crime is a doctor, a surgeon, a pharmacist, or a midwife (article 325).
- 1.6.1.4. We note here to a similar text to article 340 of the Penal Code regarding what is known as "honor killings," namely article 324 of the same law, whereby a woman who performs an abortion herself to preserve her honor benefits from a commuted sentence. Also, anyone who performs an abortion for a first to third degree relative to preserve her honor benefits from the commuted sentence. These are two texts that the International Institute for Women Solidarity "TADAMON" demanded their cancellation for some time.
- 1.6.1.5. We propose that the text of article 12 of the Public Health Law number 47 for the year 2008 be amended to include abortion resulting from a sexual assault crime, or to preserve the physical or psychological health or reputation of the victim. Following are the proposed amendments to the original text of the said law by underlining them as follows:
  - 1.6.1.5.1. A. Doctors are prohibited from prescribing anything with the intention of abortion for a pregnant woman or performing an abortion for her unless the procedure is necessary to protect her from a risk to her health or life, or if the abortion is for a pregnancy resulting from a sexual assault crime against the pregnant woman. The procedure should take place in a hospital under the following conditions:

- A prior written approval from the pregnant woman to perform the procedure. In case she is incapable of writing or talking, this approval is to be obtained from her husband or guardian.
  - Certificate from two licensed doctors who are specialists in the field, or from the forensic medicine administration emphasizing the need to perform the procedure to preserve the pregnant woman's life or her physical or psychological state or her reputation.
  - The hospital records should include the name of the pregnant woman, the date of performing the procedure, and its type. The written approval and the medical certificates are to be preserved for a period of 10 years, and the pregnant woman is to be provided with an authenticated certificate from the hospital manager indicating that the procedure was done. These documents are to be treated with the highest level of privacy and secrecy.
- 1.6.1.5.2. B. In spite of what was stated in the Penal Code, a pregnant woman and the person(s) who performed or participated in performing the abortion procedure for her in accordance with the provisions of paragraph A of this article shall not be prosecuted for committing the abortion crime.
- 1.6.1.6. We believe that the Jordanian Penal Code should necessarily include, through carrying out the necessary legal amendments, texts that permit abortion for a pregnant woman in view of specific circumstances such as rape, risk to the woman's physical and psychological health, and other circumstances that may affect the rights of women and girls directly or indirectly.

## **1.7. Expatriate Domestic Labor (Articles 2, 8, 26)**

### **1.7.1. Issue (12):**

- 1.7.1.1. Regarding domestic helpers, they face numerous problems whose parties include the government, employment offices, households, and the workers themselves. In spite of previous efforts to overcome all obstacles and challenges, household helpers are still suffer from a great deal of violations that often reach the level of human trafficking. Hence, it is necessary to give attention to this issue and find a comprehensive and complete solution to it. We encourage the government of Jordan, being one of the countries that receives domestic labor, to be the first Arab country to ratify the Convention number 189, "Domestic Workers' Convention" and recommendation number 201 complementing it, to protect all parties including the government, employment offices, households, and the workers themselves, especially female workers. For Jordan, the Convention becomes effective after one whole year from authorizing it. The Convention itself became effective in September 2013.
- 1.7.1.2. In the field of protecting expatriate labor and combating human trafficking, Jordan has gone a long way legislatively, being the first

country in the region adding domestic workers and agricultural labor to the Labor Law in 2008. Furthermore, the domestic workers' regulation was issued in 2009, yet the agricultural labor regulation has not been issued yet, which created a legislative gap that led to increasing violations among this group of workers. Some legislations are also still discriminatory, not only between expatriate and Jordanian labor, but among expatriates themselves based on nationality. Legislation requires that an Egyptian worker obtain a clearance from the employer in order to leave the country, which led to exposing this to blackmail by employers, placing them under forced labor that could amount to human trafficking.

- 1.7.1.3. The Jordanian Labor Law does not include a clear definition of the forced labor concept, in addition to the fact that some articles of this law may leave the door open for some forms of forced labor for some working groups, including work for long hours. Article 58<sup>14</sup> of the Jordan Labor Law excludes some working classes from specifying that work hours are 48 hours a week or 8 hours a day. The provisions of this article do not apply to persons who are general supervisors of the organization, or those whose work nature requires travel and movement inside or outside the Kingdom. Although the Jordanian constitution stipulates that forced labor should not be imposed,<sup>15</sup> the Penal Code did not include any text that criminalizes forced labor in any of its articles. Meanwhile, the Anti-Human Trafficking Law number (9) for the year 2009 clearly stipulated in its article 3/B<sup>16</sup> that exploiting people in forced labor is a form of human trafficking crimes. At the same time, the Anti-Crimes Law number 7 for the year 1957 article 3<sup>17</sup> granted the administrative ruler wide authorities to apprehend any person or impose house arrest on him. These texts were used to force many expatriate laborers against whom there were complaints from their employers to work against their will, which is considered one form of forced labor. There are numerous regulations issued by the Ministry of Labor that are directly connected to the mechanisms of subjecting laborers to forced labor, such as the domestic workers' regulation, cooks and gardeners' regulations. There is need for clear texts to avoid

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<sup>14</sup> The provisions of the articles related to work hours stipulated in this law do not apply to persons supervising the organization or its directorates and workers whose work nature requires travel and movement inside and outside the Kingdom.

<sup>15</sup> In article 3/2/B of the Anti-Human Trafficking Law number 9 for the year 2009, the word "exploitation" means exploiting persons in work without pay or by force, enslavement, slavery, and removal of body parts, prostitution, or any form of sexual exploitation.

<sup>16</sup> Anyone found in a public or private location in a manner that convinces the administrative ruler that he was about to commit a crime or assist in the commission of a crime, and anyone used to committing burglary, theft, or possessing stolen property, or is known to harbor or shelter burglars or thieves, or help hide stolen property or use it, and everyone who is left free without bail is considered a threat and risk to people.

<sup>17</sup> The total time in which a worker performs domestic work is actually 8 hours a day, excluding the time a worker spends without work, for rest, or to eat. Article 6 of Regulation number (90) for the year 2009, Domestic Workers', Cooks, Gardeners, and similar workers' Regulation.

forced labor such as the number of work hours,<sup>18</sup> while the employment enterprise will be subject to withdrawal of license and closure in cases listed under forced labor such as economic exploitation or human rights violations according to some provisions of the law.<sup>19</sup> Reverting to the Anti-Human Trafficking Law, a number of remarks may be summarized as follows:

- 1.7.1.3.1. The Anti-Human Trafficking Law was issued in 2009, and Jordan is considered the third country in the region to enact the law.
- 1.7.1.3.2. A joint Anti-Human Trafficking Unit was established between the Ministry of Labor and the Public Security Directorate. Since its establishment, this unit developed noticeably and is considered almost the only one doing its work in this field. It has efficient, qualified, and well-trained staff, but lacks sufficient female elements and translation facilities.
- 1.7.1.3.3. Although there is a law and the Anti-Human Trafficking Unit, identifying the victims is insufficient from other parties, and may sometimes result in detaining victims administratively. Legal implementations and pursuit of the perpetrators is still limited, and some cases are being adapted as labor or personal harm cases. This may be due to the loose definition of the crime in the Jordanian law.
- 1.7.1.3.4. The Jordanian legislator used the same terms mentioned in the Protocol to define the Human Trafficking crime, although these terms have specific meanings and manifestations in the international public law but are missing at the national level. Hence, the definition of the crime in the national law is general in nature and is vague, lacking accuracy due to the absence of clarifications of the terms used. Based on the above, it can be said that the legislative environment in Jordan is not compatible with the voluntary protocol's definition of the anti-torture convention, and hence, transferring the definition from the international convention to the national law without adapting and reforming it will cause numerous problems in interpretation and implementation.
- 1.7.1.3.5. There are terms that were overlooked by the Jordanian legislator, such as practices resembling slavery, which has a definition in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery for the year 1956, which instructs obligating states to take practically

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<sup>18</sup> Article 11 Regulation number (12) for the year 2015, Regulation to organize the special enterprises to bring in and employ non-Jordanians working in homes. (The Minister or anyone he appoints may take any of the following measures or penalties against the violating enterprise: A. Warn it not to repeat the violation, B. Warn it to remove the violation within the period specified in the warning and suspending it from work until the violation is removed, C. Stop the office from operating for a maximum period of six months, D. Close the enterprise for a maximum period of one year until the violation is removed. In case the violation is not removed within this period, the enterprise license is considered cancelled. E. Cancel its license conclusively if the violation committed represents a serious human rights violation or the current applicable regulations including the economic exploitation of the worker or taking his/her wages, or other.

<sup>19</sup>

implementable and necessary legislative and non-legislative measures to arrive gradually and as fast as possible at revoking customs and practices specified in this convention wherever they still exist, and whether or not they are included in the definition of slavery. The national law also specified exploitation in specific forms and did not refer to it in a minimum term, as the protocol stated.

- 1.7.1.3.6. Some actions mentioned in the definition represent independent crimes according to the Penal Code, such as kidnap, fraud, and forced prostitution, which encourages the judiciary to adapt the trafficking complaint within other legal descriptions that may be clearer, such as harm, deprivation of freedom, or other crimes.
- 1.7.1.3.7. The Jordanian Anti-Human Trafficking Law did not refer to the human trafficking victims' right to be identified quickly and accurately, in ways that include suitable procedures, adequate training for state employees, and cooperation between the authorities concerned and NGOs, as required by international standards. This was left, instead, for the general principles in the Criminal Courts Procedures Law, like any other crime.
- 1.7.1.3.8. The Jordanian Law did not address the public authorities' commitment to provide human trafficking victims when necessary with information about the judicial and administrative measures involved, as the Protocol and Basic Principles require.
- 1.7.1.3.9. The Jordanian law did not guarantee for the victim the right to compensation, as did the Protocol and Basic Principles. It did not stipulate any form of compensation for the victim according to the nature of the case and the potential for receiving reparations, which makes this issue subject to the general principles of compensation, according to the Jordanian law. The compensation here falls into the realm of what is referred to as the personal right and the mechanism for obtaining compensation for the crimes from the criminal. The party sustaining damage has the right to demand compensation through raising a personal right case before the criminal court of jurisdiction. The national law also failed to address the victim's right to moral compensation or reparation, as the fundamental principles of the rights of human trafficking victims stipulate.
- 1.7.1.3.10. The state does not provide victims with any form of social and medical support, or qualified translators.
- 1.7.1.4. Regarding expatriate labor, official statements show that there are 1.2 million expatriate workers in Jordan. The Ministry of Labor statistics show that the number of registered immigrants is 324,000 male and female workers who have work permits, in addition to three times this number of unregistered workers, including Syrian refugees. The number of immigrant domestic workers in Jordan is 54,000 registered workers according to the Ministry of Labor statistics for 2016, excluding unregistered workers.
- 1.7.1.5. Regarding the lack of effectiveness of government measures regarding immigrant labor, in spite of the legislative advances in

Jordan, the poor implementation and the inefficiency of application deprive this development of its desired value, as the suffering of this group still goes on. Furthermore, what these immigrants are subjected to, especially domestic and agricultural workers, in terms of exploitation, forced labor conditions, and human trafficking at the hands of employment offices and employers, takes place under the eyes and ears of the public authorities in Jordan, and these authorities did not take any tangible executive measures that would prevent violence and abuse against this group of workers. Jordanian legislations are still lacking towards forced labor and do not include effective texts to combat it and provide redress for its victims. The Jordanian judiciary continues to deal with forced labor and human trafficking issues as labor issues and not criminal ones listed under human trafficking. Furthermore, the Jordanian legal system places female domestic workers in a state of legal and actual subservience to their employers, with their moving from one employer to another conditioned on the first one releasing the worker, and issuing new work and residence permits is up to the employer. In addition, although they are subjected to the worst forms of exploitation and abuse that reach the level of physical and sexual violence, female domestic workers do not have the practical means to submit complaints against their employers or employment offices, being under their strict control, including restricting their movement and freedom. . Labor inspectors refuse completely to visit them at their work location to inspect their employment circumstances.

1.7.1.6. The reasons generating the female domestic workers' suffering are not restricted to the prevailing legislations and regulations in Jordan, but also include prevailing practices in the public and private spheres. They are practices that deal with this group of workers as prone to exploitation and subjugation, making them subject to the whims of the employer. They are subject to economic exploitation by their employer, and sometimes to sexual exploitation. They are also subject to continuous suspicion by the public authorities, always rendering them subject to arbitrary and illegal detention by members of the judiciary, sometimes for extended periods of time.

1.7.1.7. In addition to the above, expatriate laborers are subjected to interrogative and administrative detention. Following is an explanation of each:

1.7.1.7.1. Interrogative Detention

1.7.1.7.1.1. Although Jordanian legislations (article 100 as amended of the Criminal Court Procedures) stipulated that the detention period of a complainant at police stations should not exceed 24 hours, after which it is referred to the public prosecutor as the judicial party responsible for performing the interrogation, police stations continue to detain expatriates for longer periods. Through interviews by TAMKEEN Center for Support with 281

detainees, they reported that they remained at detention centers for periods ranging from one day to 11 months.

**Table (1): Interviews with Detainees at Police Stations**

Period / Detention Center	Number	Percentage
1 - 20 days	101	%36
21 days - 24 months	40	%14.2
5 - 11 months	5	%2
Unknown	135	%48
<b>Total</b>	<b>281</b>	<b>%100</b>

- 1.7.1.7.1.2. There is a wide phenomenon of detaining expatriate laborers, including domestic workers, depriving them of their freedom without legal or legitimate justification. Security stations have detained any expatriate worker if notified by his employer that he stopped working for him and does not come frequently to the work location. This is a practice that includes arbitrary and illegal deprivation of freedom that ends with deportation without investigating the presence of controls.
- 1.7.1.7.1.3. The above practice, which now represents a daily and spontaneous practice by security centers, has no basis or legal justification in the Jordanian law. The worker leaving work before the end of the period agreed on does not represent a crime and does not require detaining the worker under any circumstances. It is just a labor dispute between the expatriate laborer and the Jordanian employer, similar to a Jordanian worker leaving work.
- 1.7.1.7.1.4. Security stations may assume the position of judicial parties although that is not part of its authorities, and its first duty is to assist the Jordanian employer regardless of the other party's rights. This seems noticeable in the case of domestic workers, whereby the worker is many times forced to go back to the employer's house, or is placed in a detention center. This practice is one of the common obstacles that prevent workers from accessing justice. When worker files a complaint at a security center, or when the public prosecutor refers the complaint for investigation or for summoning the parties, the worker is detained and sent to a detention center although he is the complainant, which is indicative of the ineffectiveness of the inspection process of the detention centers.



1.7.1.7.1.5. Although instructions were issued by the public security director regarding the security circular number 3557/36/2/ق dated 23/11/2011, and although it is not sufficiently satisfactory, workers at security centers still refrain from implementing them, insisting on practicing their oppressive practices without any legal or legitimate justification.

#### 1.7.1.7.2. Administrative Detention

1.7.1.7.2.1. The Criminal Law number (7) from the year 1954 granted wide and loose authorities to the administrative ruler through obtaining a good conduct certificate, imposing house arrest, or resorting to administrative detention facing the any of the following categories:

1.7.1.7.2.1.1. Anyone found in a public or private location in circumstances that convince the ruler that he is about to commit a crime or assist in committing one.

1.7.1.7.2.1.2. Anyone who is a habitual thief, burglar, or is in possession of stolen property, or is commonly protecting or harboring thieves or helping conceal or use stolen goods.

1.7.1.7.2.1.3. Anyone in a state which makes his freedom without bail a hazard to people.

1.7.1.7.2.1.4. It is clear that the terms used in the previous text are ambiguous and wide and can be widely interpreted according to the person implementing the provisions of this law, such as "circumstances that convince the ruler that the suspect is about to commit a crime," or "was in a state that makes his freedom without bail a hazard to people." Among the categories on which the Crime Prevention Law is applied is the foreign labor against which a complaint is filed by their employers, and foreigners who do not have identity documents or whose residency expired. Jordanian public authorities administratively detain expatriate laborers in an illegal manner and in violation of the law and human rights conventions with which Jordan complies and had published in the Official Gazette years before. TAMKEEN support and Assistance Center noticed that there is a pattern followed by public authorities, especially administrative rulers in coordination with the Public Security Administration, of detaining expatriate workers administratively in violation of the Jordanian law and human rights convention, especially article 16 of the United Nations Convention on Anti-Torture and other Forms of Treatment or Harsh, Inhuman, or Humiliating Punishment. It is a form of detention that inflicts serious material and moral damage to this group of workers.

1.7.1.7.2.1.5. The number of administratively detained persons according to decisions by administrative rulers in the Kingdom was 19,860 detainees in 2015 against 20,216 in 2014, 12,766 in 2013, 12,410 in 2012, and 11,345 in 2011. The ratio of detained or arrested non-Jordanians was 4% of the total number of detainees in reform and rehabilitation centers in security centers. An expatriate worker may remain in detention for months and even more than a year. It may be difficult to provide these workers with travel tickets. Through interviewing 281 detained expatriate workers, it was evident that their administrative detention periods ranged between 21 days and 2 years.

**Table No. (2): Detention Periods of Expatriate Workers Detained by Decisions from Administrative Rulers**

Period / Detention Center	Number	Percentage
21 Days to 4 Months	145	%66.5
5 - 11 Months	51	%23.4
1 to 2 Years	13	%6
Unspecified	9	%4
<b>Total</b>	<b>218</b>	<b>%100</b>

1.7.1.7.2.2. At the level of the cost of reform and rehabilitation centers' residents, this cost reaches JD92,700,000 annually, at the rate of JD750 for each resident each month. In case there is an alternative penalty, the cost goes down by 25%, reaching JD69,600,000 a year.

1.7.1.8 Regarding the rights of detained expatriate workers' rights, from interviews with the 281 expatriate workers detainees, it was stated that they did not know the reason for their detention, or their right to have legal counsel, and that translation was not available when the detained workers were interviewed.

1.7.1.9 Regarding the detainees' treatment, no inhuman treatment or any form of torture were reported inside the administrative detention. Some female expatriate workers reported that they were made to clean the security center when detained.

1.7.1.10 Regarding access of victims among expatriate workers to justice, it is possible to talk about the obstacles to accessing justice as follows:

1.7.1.10.1 Within the context of abuse of expatriate labor in general, and expatriate female domestic workers in particular, it can be said that

impunity is the prevailing feature. Some employment offices owners and employers are not prosecuted sufficiently for human trafficking in these workers, exploiting them economically or abusing them physical, sexually, or morally.

- 1.7.1.10.2 Victims of these acts among expatriate workers in Jordan, including female domestic workers suffer from the difficulty in accessing justice. Most of them leave Jordan before being compensated, due to routine practices by the public authorities, which deprive them of continued residence until they receive what is due to them and a fair compensation for the damages they sustained. A large number of these workers are deported by administrative parties and the public security before receiving their compensation. In addition, simply deporting them or depriving them of residency represents an obstacle that prevents them from reaching the courts.
- 1.7.1.10.3 Among the other obstacles that prevent victims from accessing justice are the current legislations in Jordan. The Jordanian Labor Law specifies a two-year statute of limitation on the right to labor wages, and a three-year statute of limitation on demanding compensation for damage sustained. It is practically impossible for expatriate domestic workers whose freedom is restricted by their employers, preventing them from leaving the house or contacting the outside world, to take the initiative during this period to demand their rights.
- 1.7.1.10.4 Among other common obstacles that prevent these victims from accessing courts is the common practice by employers and security stations in case an expatriate worker left the house of her employer to work. When these workers demand their pay and dues, employers file a complaint against them for theft at the security station, and they are detained, pursued, and tried. Practice shows that most of these accusations are false. Furthermore, when an expatriate domestic worker flees the house of her employer due to abuse, her employer immediately notifies security centers accusing them of theft or running away. In these cases, workers are too afraid to submit a complaint because they may be detained for a long period of time, and sometimes prosecuted. Add to this the difficulties faced when resorting to courts, since they are not familiar with the Jordanian legal system,, the language used in the various stages of litigation, and the difficulty in appointing a lawyer, for financial reasons, especially that cases involving more than JD1000 require the appointment of a lawyer. The following recommendations may be presented in this area:
  - 1.7.1.10.4.1 Work at amending the Crime Prevention Law so that it cannot be used by some employers to force expatriate labor to work for them, and therefore use it as a means to threaten some sort of penalty, which was prohibited by the 1930 convention. In other words, the Crime Prevention Law must not reinforce forced labor practice through the authorities granted to the administrative ruler which are listed under administrative

control in the form of controls and limitations over the activities of individuals and their freedoms for the purpose of protecting public order.

- 1.7.1.10.4.2 Not to deport any worker except with a judicial decision, and not to resort to (restricting the freedom / administrative detention) during the deportation procedures or correcting the situation. We recommend against deporting any worker because of violating the residency rules, and recommend to accept the guarantee of the embassy representative of the worker, without connecting it to a Jordanian guarantor to reduce detention. It is also recommended to not detaining expatriates only for violating residency or immigration laws.
  - 1.7.1.10.4.3 The importance of enacting a practical legislation that criminalizes forced labor within the framework of criminal legislations, building the capacities of judges in courts of reconciliation with specialists in labor claims and demands to discover what is considered forced labor and setting a mechanism to refer the case to relevant parties.
  - 1.7.1.10.4.4 Review the Anti-Human Trafficking Law and adapt it to international standards, and to include articles to protect victims and provide psychological, health, social, and legal support to them, granting them temporary residence until their cases are addressed, and enacting a system for agricultural workers.
  - 1.7.1.10.4.5 Ensure that expatriates detained are informed in a language they understand and provide interpreters throughout the procedures.
  - 1.7.1.10.4.6 Work at implementing legislations and reinforce and activate investigation, and create a mechanism to investigate the status of domestic workers.
  - 1.7.1.10.4.7 Create a mechanism to compensate the victims of human trafficking or any other form of torture and humiliating treatment.
- 1.7.1.8. Regarding imprisonment as a result of non-compliance with a contractual commitment, the following may be summarized:
- 1.7.1.8.1. Detaining expatriate workers without any legal or legitimate reason is a phenomenon that requires a clear intervention from the relevant authorities to stop it and redress its victims, compensating them for the damage they sustained. The worker's citizenship and status as a foreigner in Jordan should not be the only reason behind his illegal detention. It is not logical at all to detain a worker because of a contractual disagreement, which is what happens with Egyptian workers. If a worker is caught practicing a profession other than the one he is permitted to work in, or with an employer he is not allowed to work for, or if he is working without a work permit, he is detained

until a decision is issued to deport him. After the decision is issued, he is detained until the decision is implemented, although article 37 of the Residence and Foreigners' Affairs Law stipulates that the Minister, upon the recommendation of the Director, has the right to deport foreigners, and may order the detention of whoever is to be deported temporarily pending deportation procedures. A foreigner who was deported may not return to the Kingdom except with a special permission from the Minister. Although this article indicates that the temporary detention should take place after the deportation decision was taken, official practices are different. Official parties have become accustomed to detaining immigrants for extended periods of time before and after deportation decisions are issued. Other workers from nationalities listed in the Residence Law suffer from the same treatment. An irregular expatriate worker who violates the provisions of the Residence Law is detained, and his detention period may extend as a result of his inability to pay the fines for overstaying his residence. A decision may be issued to deport him, and he is detained until his deportation decision is implemented.

- 1.7.1.8.2. It may seem at the first instance that there is no relationship between the Anti-Crime Law and forced labor. There are numerous reports, however, that monitored violations against expatriate labor, represented in employers reporting to the administrative ruler that an expatriate worker left his place of work or wishes to work for a different employer. The administrative ruler detains the worker based on the Anti-Crime Law. Egyptian expatriate workers who are exempt from the provisions of the Residence Law, or expatriate labor from other nationalities whose residence permits have expired fall victim to this practice. This law is also used by some employers to force expatriate workers to work for them, and as a means for threatening them with some sort of penalty, which was prohibited by the 1930 convention. In other words, the Anti-Crime Law reinforces the forced labor practice through the authorities granted to the administrative ruler, which are listed under the administrative control concept, manifested in placing controls on the activities of individuals and their freedoms for the purpose of protecting the public order.
- 1.7.1.8.3. The year 2014 also witnessed the issue of the decision to compensate an expatriate Egyptian worker who was randomly detained for 13 months. This is considered a noticeable judicial advance.

## **1.8. Treatment of Foreigners, Including Refugees and those Seeking Refuge (Articles 2, 7, 9, 10, 13, 26)**

### **1.8.1. Issues (13, 14): Policy of Dealing with Syrian Refugees**

- 1.8.1.1. At the level of the extent to which refugees enjoy protection, we would like to clarify that in spite of its limited capabilities and meagre resources, Jordan has, since its establishment, dealt with a number of

asylum crises, the latest of which was the Syrian refugee crisis. The number of Syrian refugees reached 300,000. Jordan currently hosts refugees from more than 48 nationalities who left their countries suffering from war and internal strife, searching for security and stability.

- 1.8.1.2. In view of its continued efforts to find solutions for problems facing Syrian refugees in Jordan, the Jordanian government presented a number of initiatives that could mitigate the stress of asylum for Syrians. During the last quarter of 2016, Jordan exempted Syrian workers from paying the fees of applying for work permits, to motivate their participation in the Jordanian labor market, in response for the commitments Jordan made in this respect, in the wake of the London conference of donors held in February 2016. The Jordanian government also exerted many efforts to open schools for all Syrian children to provide them with education in all governorates.
- 1.8.1.3. In spite of the achievements mentioned above, refugees in Jordan continue to suffer from problems that threaten their ability to live a respectable life in Jordan. Perhaps the main challenge in this respect is the inability of refugees to join the labor market in Jordan freely and equally, which affects them negatively and to a large extent their ability to support themselves and their families and to live respectfully, particularly in view of the meagre support and relief provided by the international community, which target non-Syrian refugees. Even in view of work permit fees exemption for Syrian refugees, and although this is considered a step forward towards providing better living conditions for them, the method through which the government seeks to involve Syrian refugees in the labor market does not observe a number of issues considered to be very important, most prominent of which being the refugees' legal status in Jordan, in addition to the failure to provide the legal frameworks that ensure protecting refugees from exploitation in the labor market. Furthermore, the government did not provide guarantees regarding the mechanism for working with these permits over the next few years, and whether the exemption will continue in future.
- 1.8.1.4. Regarding protection issues facing Syrian refugees in Jordan, the most important one is that most Syrian refugees do not have important documents such as identification papers, marriage certificates, and correct birth certificates for children. This results in the inability of Syrian refugees to access many important services such as humanitarian assistance, education, health, and work. The danger of this lies in that it pushes Syrian refugees to be involved in normal practices and dealings such as marriage and divorce without documenting them in a proper legal way, which may result in their losing rights, and thus fall victim to serious violations against them, especially women. In Syrian asylum camps and in the absence of the biological fathers, mothers of some newborn children resorted to fake marriage to other than the real fathers in order to receive assistance

and services. This led to some men exploiting the opportunity to violate these women's rights, reaching recurring rape of some Syrian women who fell victim to these practices, under the threat of revealing their fake situation. They resorted either to silence about it or reporting these violations, some of which continued for a number of years.

1.8.1.5. Lack of supporting documents, especially official marriage certificates, resulted in threats to huge numbers of children to become stateless, which may destroy whole families and affect the Syrian social fabric. The financial cost involved in legalizing marriage certificates and issuing birth certificates for newborns among Syrian refugees was exorbitant, which led many of them to refrain from rectifying their positions, and hence the continued violations against women. The Jordanian government, however, after realizing the magnitude of the problem, opened the door for all refugees in Jordan to rectify their positions by removing all fines related to registering unofficial marriage certificates over two periods. The first was during October 2014, and the other was in May - June 2015, whereby large numbers of refugees came forward to rectify their status, which contributed to a large extent in mitigating the problem and providing protection to many Syrian female refugees who are now protected by the legal umbrella of the Jordanian Civil Status Law. It also contributed to protecting a large number of children from becoming stateless. In spite of Jordan's position towards some of these issues, the above shows that the Jordanian state is not fully committed to a number of the articles of the International Convention for Civil and Political Rights, notably article 3 related to ensuring that males and females are equal in enjoying all civil and political rights, article 4 regarding exceptional emergency situations, article 6 on the right to life, article 23 on the family in society, and article 24 on the rights of the child.

1.8.1.6. Among the other main issues that worry refugee communities in Jordan is the forced repatriation of refugees to their original countries, although the Jordanian constitution stipulates that political refugees are not to be handed over because of their political ideologies or for defending freedom, noting that this may expose their lives to risks. Many reports showed that the Jordanian government repatriated a number of Syrian refugees over the past few years, in spite of the danger involved to their lives. Some reports affirm that among those repatriated were killed as a result of the ongoing struggle there. Furthermore, the Jordanian government repatriated 800 Sudanese refugees to Sudan after they performed a sit-in in front of the UNHCR offices for a month, protesting their living standards and the slow procedures of repatriating them. The Jordanian saw this as a violation of laws and an excuse to deport them to their country. This does not only contradict the Jordanian state's commitment under articles 6 and 21 of the International Convention for Civil and Political Rights regarding the right to life and to peaceful congregation, but also reflects Jordan's lack of commitment to the items of the Memorandum

of understanding signed with UNHCR, which affirms the principle of non-refoulement of refugees. This also contradicts the commitment of the Jordanian state under article 23 of the International Convention for Civil and Political Rights on the family in society, due to its effect on the disintegration of the social fabric, because men are the ones deported in most cases, leaving their families behind without support.

- 1.8.1.7. Another issue faced by refugees in Jordan is the issue of administrative detention. A number of reports, notably "the International Swiss Detention Project," published in 2015, pointed out that at the time the report was published, there were 5700 Syrian refugees detained by the Jordanian authorities. Detaining refugees like this has no legal basis for the authorities to do so. The report shows that the authorities detain any worker whose employer notifies the security authorities that he left his employment or stopped showing up at the work location. This practice by itself contradicts article 9 of the Convention, which stipulates the right of all people residing on state territories to freedom and security. It also contradicts article 8 of the Jordanian constitution. Furthermore, many reports stated that many detained refugees were subjected to at least one form of inhuman treatment, which contradicts article 10, which stipulates the need to treat detainees humanely.
- 1.8.1.8. Refugees in Jordan face a number of obstacles and constraints imposed on their freedom of movement, especially those residing in Syrian refugee camps, where the authorities impose a number of restrictions on the freedom of these refugees to leave the camp to fulfil needs, except in limited areas and within small time windows. This practice by itself contradicts the text of articles 12 and 13, which stipulate the freedom of all individuals residing on the territories of the host country member to the Convention to move and reside freely.
- 1.8.1.9. The Jordanian law does not permit non-Jordanians to establish non-governmental organizations or join labor unions, which deprives many refugees from forming associations, some of which may have responded to the Syrian refugee crisis. This contradicts Jordan's commitment under article 22 of the International Convention, which stipulates the freedom of all residents within the territories of the member country to form associations and join unions.
- 1.8.1.10. Syrian refugees residing in camps allocated for Syrian refugees form only 20% of the total number of refugees in Jordan, registered with the UNHCR. The number of Syrians living in the Kingdom who are not registered is more than double that of registered refugees. At a time when the Jordanian government, the UNHCR, and international organizations operating in the camps are exerting huge efforts to provide health services to residents of Syrian refugee camps, 80% of Syrian refugees living outside these camps still face huge difficulties in obtaining health services. A report published by Amnesty International at the beginning of this year showed that the material and procedural obstacles are the main obstacles preventing Syrian refugees from accessing these services. The Syrian refugees identity card, issued by



the Jordanian Ministry of Interior was the means used by Syrian refugees to acquire medical services from public medical institutions free of charge, until the Jordanian government in 2014 changed its policies regarding health services provided to Syrian refugees, and such services were not provided free of charge any more. Syrian refugees were treated like Jordanians who do not have health insurance. Within this context female Syrian refugees, especially those living outside camps face difficulties in obtaining health care; a basic human right. This contradicts article 6, which stipulates freedom to life, since the inability of refugees to access health care directly affects their life, and also affects children directly, which contradicts article 24 which stipulates the need to preserve the rights of the child.

- 1.8.1.11. Refugee children continue to face huge problems in access to education and school enrollment. A report published by Human Rights Watch showed that more than one third of Syrian children (more than 80,000) in Jordan who are of school age did not receive official education in 2015. Girls in this context face additional obstacles as a result of the parents' worries for their safety (especially older girls) on the way to school. For its part, the Jordanian government pledged during the London conference of donors to enroll all Syrian refugee children to education in 2016 / 2017, estimating that Jordan needs one billion dollars over 3 years to absorb the education pressures as a result of the refugee crisis.

It is noteworthy that Jordan did not exert any efforts, whether in the national dialogue or the preparation of a study to ratify the 1951 Convention or the 1967 Protocol, and did not work at submitting any proposals to issue a national law for refuge, in spite of the importance of creating a national legislation that governs the refuge process. The memorandum of understanding signed between UNHCR and the Jordanian government requires development to provide protection for refugees.

## **1.8.2. Issue (15): Palestinian Refugees**

- 1.8.2.1. The issue of withdrawing the national numbers from Jordanian citizens of Palestinian origins based on the decision to disengage from the West Bank has represented an important issue for years now. Taking this decision based on practices by staff members at the Ministry of Interior represented a problem due to the lack of clarity of sensitive standards for this action, which affected the withdrawal of citizenship from Jordanians unlawfully. However, the decision issued by the Cabinet of Ministers, stipulating that returning the numbers should be the decision of the Prime Minister, while withdrawing them should be approved by the Cabinet of Ministers only, limited this problem to a large extent.
- 1.8.2.2. Regarding the children of Jordanian women married to foreign men, Jordanian women still cannot grant their nationality to their children, but the government offered an alternative called "benefits," whereby the Cabinet of Ministers decided on 9/11/2014 to approve a package

of facilities for the children of Jordanian women married to foreign men. The Cabinet of Ministers' decision included providing service benefits to the children of Jordanian women married to non-Jordanians, provided the Jordanian woman had been residing in the Kingdom continuously for the past 5 years so that her children can benefit from the services offered, including education, health, work, investment, ownership, or a private driver's license. These benefits, however, did not alleviate their suffering in these areas, and did not reach a stage where they can benefit from the civil rights they were promised, which was a commitment to implement legal provisions equally on men and women, and without discrimination. The facilities included the Civil Status Department issuing an introductory card for the children of a Jordanian woman within 6 months from the date these facilities were introduced. The services benefits granted to Jordanian women married to non-Jordanians are still not properly implemented, and some government and private departments and institutions still procrastinate about implementing them. Hence, and considering that these benefits are temporary and interim solutions, we demand that they are fully implemented, and that all children of Jordanian women married to non-Jordanians benefit from them.

## **1.9. Freedom and Security of Individuals and Humane Treatment of Individuals Who Were Deprived of their Freedom (Article 7, 9, 10)**

### **1.9.1. Issue (16): Legal Protection and Practices against Detainees**

1.9.1.1. There are numerous articles in the Jordanian Criminal Trials Procedures Law that guarantee the right to freedom and safety, and guarantee that torture does not take place during the early stages of interrogation. Among these texts are articles, 100, 63, 64, and 159. Reviewing these texts, we find in article 100 that although they required that the defendant's testimony should be taken within 24 hours, judicial jurisprudence stipulates that voidance does not apply if the person interrogated was not transferred within 24 hours as stipulated by this article.

1.9.1.2. We also find that articles 63, 64, and 159 of the said law did not require the presence and appointment of a lawyer during the initial interrogation before the public prosecutor, which requires the addition of required legal texts permitting the apprehended person to immediately contact a lawyer and his relatives to be present during the investigative interrogation, and that he has the right during interrogation to be examined by his private doctor to ensure the interrogation procedures. Furthermore, the principles included in the Criminal Trials Procedures Law require that detention is a procedure issued by the judicial authority, represented by the public prosecution and the court of jurisdiction, and that no detention is to take place before the interrogation, which is the right of the public prosecution alone, and only the public prosecutor can practice the interrogation. The text of article 114 of the Criminal Trials Procedures Law, however,

as amended by the law number 16 for the year 2001 only includes general standards to regulate the detention procedures, and lacks real guarantees to avoid arbitrariness in using detention. The said text gives the public prosecution the right to detain the defendant when there is "evidence connecting him to the act he is accused of, rendering the continuation or renewal of the detention subject to the "interrogation interest" requirements." This interest represents a wide standard that provides the opportunity to continue detaining persons throughout the case procedures and until a judgment is passed, which could be innocence or no-responsibility.

1.9.1.3. Regarding the organization of detention centers and subjecting them to judicial supervision, the Reform and Rehabilitation Centers Law for the year 2004 included provisions to regulate and manage prisons, subjecting them to the oversight of the Public Security Director. The law did not include any reference to judicial oversight, but the Criminal Courts Procedures Law, articles 104-108 regulated the judiciary's duties in inspecting prisons and detention centers. Nevertheless, prisons cannot be considered as under judiciary supervision according to international standards. The judiciary is not involved in regulating prisons, and its supervisory task is restricted to verifying the legitimacy of detention (in the sense that it is issued by a specialized authority.) Due to the absence of effective judicial supervision over prisons and detention centers, they became a fertile ground for practicing torture and inhumane treatment. This was referred to in many reports, as well as periodic reports by of the National Human Rights Center regarding the state of prisons. This led many national and international parties to demand separating prisons from the public security administration and subjecting them to judicial oversight far from police work.

1.9.1.4. Regarding the ease of access to detention locations, according to the Reform and Rehabilitation Centers Law, prisoners enjoy visitation rights by relatives, friends and lawyers. Instructions and procedures followed in regulating this right, however, do not serve the objective of the visitation rights (keeping the inmate in touch with his social environment and acquiring legal services). Lawyers and relatives often complained about preventing them from visiting their clients and family members detained in public prisons for many reasons, including strikes in jails, maintenance work, and others, which do not justify prevention from visitation. Reports and facts indicate that it is not easy to access detainees at the criminal investigations administration and the anti-drug administration which are exempted, to begin with, from the provisions of the Reform and Rehabilitation Centers Law provisions, and who are detained for periods extending to days and weeks, preventing them from contacting their relatives and lawyers, and who, in most cases, do not have information about the reason for their detention and what they are charged with. This precludes the potential for verifying their safety. Reports also indicate that detention at the General Intelligence Department detention centers, although included

in the provisions of the Reform and Rehabilitation Centers Law, is exempted in practice from implementing the provisions of the right to visitation as stipulated by the law. Detainees at the center may be prohibited from meeting lawyers and from visits by family members for months, and even throughout the detention period.

- 1.9.1.5. Regarding the status of reform and rehabilitation centers , in spite of the improvement in the conditions and locations of detention, some centers continue to suffer from some problems such as overcrowding and lacking medical services, especially the psychological side in terms of the failure to provide [psychologists and psychiatrists, in addition to the lack of medical files for all residents. Even in case the medical file exists, which is considered the inmate's privacy and can only be examined by the treating doctor, it was noticed that that inmate medical files are with public security members. It was also noticed that reform and rehabilitation centers do not provide detainees with information about the laws and regulations that show the rights and duties of detainees, and restrict it in some center to placing them in corridors. Many detainees from what is called Jihadists organizations complained from bad treatment by prison administrations and imposing additional restrictions on them whether in visits, telephone communications, or during meetings with their lawyers and representatives. This forms a violation of the rights of detainees to contact the outside world.

**1.9.2. Issue (17): Prevention of Crime Law**

- 1.9.2.1. Regarding measures taken to amend the Prevention of Crime Law for the year 1954, the authority of the administrative rulers in imposing detention according to the provisions of the Prevention of Crime Law is considered a source of a host of violations of the right to freedom, the right to personal safety, and a violation of the requirement of proof of innocence. Detention decisions issued by administrative rulers are the announced legal basis to enable the police to detain people for a long period of time without referring them to the judiciary, and contesting the detention decision should be before the administrative judiciary, and the appeal can only be submitted by a qualified lawyer who had practiced law for at least five years. This requires large amounts of money, and most detainees cannot afford it. This law should hence be seriously reviewed. (Reference is made to the information and clarifications in responding to the question related to the right of expatriate workers, where there is more detail of the administrative detention issue.)

**1.10. The Right to a Fair Trial and the Independence of the Judiciary (Article 14)**

**1.10.1. Issue (18)**

- 1.10.1.1 The Formation of Regular Courts Law in the Kingdom (Article 2) entrusted regular courts with the right to litigate on all persons in all civil and criminal cases, with the exception of articles where the

judiciary right is authorized to religious or special courts. Article 97 of the Jordanian constitution stipulates that "Judges are independent, and in the exercise of their judicial functions they are subject to no authority other than that of the law." The State Security Court, the Police Court and the Military courts, including the General Intelligence courts are considered special courts according to national legislation. Many questions were raised regarding the extent of these courts' independence and the extent to which they fulfil the fair trials' standards, in terms of their subordination to the executive authority, whereby the State Security Court is formed by a decision from the Prime Minister, of judges who are mostly from the military, and are subordinate to the army chief of staff within the principle of the authority hierarchy. The Prime Minister appoints a military officer in the position of public prosecutor, who directs charges and orders the continued detention of detainees. He is assisted by a number of legal officers from the General Intelligence and the Armed Forces. The state security prosecution is accountable before the military judiciary and not the Judicial Council. Hence, all those who make the decisions (arrest, detention, and trial) are part of the military establishment. It is noteworthy that decisions issued by the State Security Court are appealable before the Court of Cassation. Nevertheless, this does not represent a guarantee that the court is independent or that there are guarantees of fair trial in its deliberations. Furthermore, the detention period at security stations in cases that fall under the jurisdiction of this court, to be presented to the public prosecutor is 7 days, against 24 hours in cases addressed by regular courts. The preliminary investigation procedures in cases under its jurisdiction are done by a military public prosecutor, which contradicts international standards and guarantees of a fair trial.

- 1.10.1.2 At the legislative level, this report summarizes the following:
  - 1.10.1.2.1 The constitution of Jordan does not stipulate guarantees of a fair trial as a right of the citizen. Furthermore, the Criminal Trials Procedures Law did not stipulate also the right to use a lawyer and guarantee the right to defense, except in criminal cases punishable by death or life in hard labor, and according to the Juvenile Law in criminal cases, which leaves tens of thousands of unrepresented people. Furthermore, the guarantee covers the trial period only, and this is a violation of the right to defense and the right to a fair trial as international standards stipulate.
  - 1.10.1.2.2 The Criminal Trials Procedures Law does not stipulate clearly the right of individuals to appoint a lawyer during the preliminary investigation stage at the security stations. In spite of the fact that the Bar Association Law stipulates the right to employ a lawyer during those procedures, in fact, lawyers are harassed and prevented from communicating with their clients, especially in certain types of crimes such as drugs. Hence, there is need for creating texts that include acceptable standards and effective

guarantees to expedite the investigation and end it, and refer the case to court, and complete the trial procedures for the prosecution and litigation within a reasonable time period.

1.10.1.2.3 The Criminal Courts Procedures Law does not include the provision of a number of guarantees of fair trial during the investigation and trial stages, especially concerning guaranteeing the legality of detention, where a trend towards being stringent in detention and exceeding the terms of legal detention by resorting to the Crimes Prevention Law. In return, the national system is void of compensation and effective reparation for victims and those who sustained damage as a result.

1.10.1.2.4 The National Justice System is still void of an integrated institutional system that regulates the provision of legal assistance to the poor and disenfranchised groups. Although a special section was established for legal assistance at the Ministry of Justice in 2015, the number of cases to which assistance services were provided was 129 cases in 2015. Furthermore, the budget allocated did not exceed JD100,000 during the year<sup>20</sup>, although demand for potential legal assistance services on which service criteria apply by using the poverty line for the very poor is 17737 cases, according to the demand analysis for justice services, carried out by the Justice Center for Legal Assistance, implemented by the General Statistics Department in 2012. It should be taken into consideration that this number is regularly increasing as a result of the population inflation and the effects of refuge. At present, the main supplier of legal assistance service in Jordan is the civil society institutions. However, they are subjected to strong pressure and assault by the Bar Association which is seriously seeking, within escalation measures, to prevent these institutions from continuing work, and have submitted requests to close them with the excuse that they infringe on the Association's specialization and are competing with lawyers in their livelihood. In this context, the Association moved against the lawyers, including legal consultants and contractors with these institutions and sent warnings threatening them with legal and disciplinary action that may reach ending their practice of the profession in case they continued to cooperate with these institutions.

1.10.1.2.5 In addition to the above, the Anti-Terrorism draft law expanded its authorities in issuing warrants to arrest suspects of committing or contemplating terrorist acts, and to detain them until they are referred to the public prosecutor, without setting a time ceiling for that, in addition to granting security and military establishments the authority to refer these people to the administrative ruler or the public prosecutor without specifying a time ceiling.

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<sup>20</sup> About \$143,000 or 130,000 Euros

- 1.10.1.2.6 The Juvenile Law came to provide protection for children in a conflict with the law by creating a special procedural system and a special judiciary that addresses juvenile issues in a specialized way in various crimes, in its best interest. The Drugs and Psychotropic Substances, according to the latest amendment, however, usurped the specialization of the juvenile courts to address drugs and psychotropic substances-related issues committed by juveniles and added them to the State Security Court.
- 1.10.1.2.7 The Anti-Terrorism Law number 55 for the year 2006 and its amendments expanded the use of the terrorism acts concept according to its article 2, contrary to what was stipulated by article 147 of the Penal Code. This expansion creates a conflict in the legislative system when implementing penalty clauses, which represents a source of inequality among those addressing the context of the legal foundation, as well as overlooking the principle of the criminal intent that permits the judge to implement the legal texts on crimes, and accuse the defendant of terrorism over normal actions that may not actually represent terrorist acts. This method actually contradicts international standards that guaranteed a fair trial and that crimes are not prosecuted except on the basis of criminal intent. It is also used as a tool to restrict freedom as it is based on the potential for committing a crime, especially regarding activities by journalists and political activists.

## **1.11. Freedom of Conscience, Religion, and Ideology (Articles 2, 18, 26)**

### **1.11.1. Issue (19):**

- 1.11.1.1 Regarding measures taken to guarantee the freedom of religion, legally and by practice, and the alleviation of discrimination on religious basis, Christians in Jordan represent 4.5% of the population, although no official statistics on this. They all coexist in general on good terms with the Muslim majority. The Jordanian constitution stipulates in its article 2 that the state religion is Islam. Article 6, however, stipulates that "Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion." Furthermore, the constitution, in its article 14 guaranteed freedom of religion, whereby article (14) stated that "The State shall safeguard the free exercise of the rites of religions and creeds in accordance with the customs observed in the Kingdom, if such is not inconsistent with public order or morality." A Muslim, however, does not have the right to change his religion, with the excuse of apostasy. Furthermore, the Penal Code set penalties, ranging between imprisonment and fines for anyone who slanders religions (one to three years) and imprisonment of up to three months for insulting religious sentiments. In its article 28, the Civil Status Law prohibited marriage of an apostate even if the other party is not a Muslim. Article 142 of the Civil Status Law stipulated that if the apostasy of one of the parties in marriage was proved and he or she refused to reconsider his

or her apostasy, the judge shall annul their marriage.) Furthermore, anyone who changed his religion from Islam shall be deprived from inheritance and child custody according to article 281 and 72 of the same law. Article 48 requires an apostate woman to return her dowry to her husband. The government's application of Islamic Sharia by raising court cases of apostasy against Muslims taking other religions continues to show a clear rift. An apostasy case requires divorcing the man from his wife, in addition to depriving him of inheritance rights and custody of his children. Meanwhile, there is no law or legislation that prevents a Christian from converting to Islam. However, social norms among Christian sects penalize anyone who converts to another religion either by community boycott or assault and killing in some cases.

- 1.11.1.2 Regarding the freedom of religion among other religious sects such as Baha'is and Druze, the Civil Status and Passports Department does not officially recognize these religions, their schools, or places of worship of their followers. Marriages of these sects and their personal transactions are recorded as if they were Muslims. For example, there are two types of recognized Baha'i cemeteries, but the Adasiyah area Baha'i cemetery was registered under the name of the Ministry of Awqaf and Islamic Affairs, although members of the Baha'i faith requested that it is registered under the Baha'i faith. Among the discrimination manifestations for the followers of the Baha'i faith is refraining from mentioning the religion of the personal Civil Status ID card or any other records. The government considers Baha'is as Muslims, but leaves the religion field on the ID card empty, or places signs or dashes in it. Official authorities also do not recognize the Druze faith, but do not prevent members of the sect from practicing their faith.
- 1.11.1.3 Jordan has been active in limiting the spreading of the Shi'ite faith, in what is known as combating Shi'ism. The authorities permitted the establishment of the National Authority for Combating Shi'ism in Al-Karak, and the former Prime Minister Abdullah Al-Nsour pledged on 19/5/2013 before the members of this authority to halt all procedures related to opening religious tourism for the Shiite sect in Al-Karak governorate for political reasons.
- 1.11.1.4 For its part, the General Ifta' Department, whose authority is formed by a decision from the Prime Minister responded to a question it received 10/5/2010 regarding the provision of the CEDAW (Convention for the Elimination of Discrimination against Women) convention, and whether its articles are compatible with Islamic Sharia, saying that "the agreement has clear violations of the Islamic Sharia, especially in article 15 and 16. We object to and condemn everything that contradicts Islamic Sharia." The response stated: "The Personal Status Law's reference is Islamic Sharia according to the constitution, and hence we



expect our brothers the representatives to object to this convention when it is submitted for discussion."<sup>21</sup>

1.11.1.5 The fact of the matter is that the belief that religious rights are lacking in Jordan continues to prevail, and it is difficult to obtain information in this respect and / or to spread them widely and publicly, so as not to fall in current local problem between preserving the national security and human rights, and their relations to the freedom of belief and the spread of hate address. This is the issue that kept the restrictions of bringing in publications published outside Jordan, according to the Press and Publications Law. According to statements and reports published in the media, and quoting the Media Commission, more than 34 books were prohibited in 2013, and at least 18 books until the beginning of June 2014. Furthermore, 9 out of 52 books were prohibited from circulation because they included "phrases that violate morality and modesty," or are "pornographic," or "invite moral degeneration," according to the Media Commission. Example include prohibiting circulation of the novel "No Knives in this City's Kitchen" by the Syrian author Khaled Khelifa, that was shortlisted for the international award for Arab novels in 2014, for "phrases that violate morality and modesty." However, the more common reason for prohibition is "causing harm to Jordan and the Hashemite family." In 2013, the book "Spies against Armageddon, which talks about the secret wars of the Israeli intelligence since 1948 was prohibited for "causing harm to King Abdullah I and King Al-Hussein." The Arabic translation of the book "Veil: The Secret Wars of the CIA 1981 - 1987" by the investigative reporter Bob Woodward was prohibited, while other prohibitions included offending the name of God, offending Arab leaders, offending Islam, and sectarian reasons.<sup>22</sup>

1.11.1.6 In spite of the general atmosphere of tolerance and coexistence among the various components of the Jordanian society, it was noticed that "hate speech" trends have been growing over the past few years. This is connected, in our opinion, to the growing extremist trend and the accompanying fight against terrorism in Jordan and the Arab region. These trends were evident on social communication media, rejecting tolerance between Muslims and Christians. This appeared in numerous manifestations that we mention briefly hereunder:

1.11.1.6.1 A wide debate emerged on social media regarding whether "Muslims can extend their wishes to Christians on their religious occasions." As a result, Dar Al-Ifta' issued a Fatwa on 24/4/2014 titled "Treatment of the People of the Book in Islam," in response to a question directed at the Ifta' Department on how to treat the Jews and Christians People of the Book in view of the Quran and Sunnah, and historical events. The response was that "the tolerant Islamic Sharia urges people to treat people in general well, and that the People of the Book, namely Jews and Christians in particular, especially if they were

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<sup>21</sup> <http://aliftaa.jo/Question2.aspx?QuestionId=704#.WRI4IYh96Uk>

<sup>22</sup> [www.7iber.com/2014/08/book-censorship-2](http://www.7iber.com/2014/08/book-censorship-2)

peaceful towards us, and do not harbor animosity and war towards Muslims. Sharia points out that they are to be treated fairly and charitably, and not be abused," and "one of the forms of this treatment is that visiting them and sharing their happiness and sorrow is permissible. There is also no embarrassment in sharing their food as long as you avoid alcohol and pork. It is also permissible to deal with them in terms of buying and selling, and other legitimate dealings."<sup>23</sup>

1.11.1.6.2 Among the most prominent such cases was the death of the Jordanian writer Nahedh Hattar on 25/9/2016 for republishing a caricature that mocks Da'ish, for which he was accused of "insulting the divine" on his Facebook page. The issue promoted a large debate within the Jordanian society. A man killed him on the steps of the Palace of Justice in the capital Amman as he was escorted to court to be tried for "promoting sectarian and racial strife" through publishing the caricature. Detaining Hattar for publishing the caricature and referring him to the judiciary contributed to drawing attention to him as a guilty man. The state's duty is to protect the freedom of thought and belief, and to provide protection when assaulted or instigated against because of their opinions or beliefs. Hence, the Jordanian government was accused of laxness and carelessness in providing protection to "Hattar," especially that it knew he was threatened. The Human Rights Committee noted in its General Comment number 22 that the concept of the official religion of the state by itself does not represent a violation of the freedom of belief and religion, but the state is obligated to ensuring that its official religion or religion in general a basis for discrimination, or for the religion to become discriminatory. The government, however, represented by the Prime Minister and the Minister of Interior referred the victim to prosecution under the influence of hate speeches and incitement against him, on the premise that he disrespected religions and religious figures. We believe that the government in dealing with this event violated its commitments resulting from articles 18 and 19 of the International Convention on Civil and Political Freedoms, and should bear the responsibility in accordance with the International Human Rights Law.

## **1.12. Freedom of Opinion and Expression (Article 19)**

### **1.12.1. Issue (20)**

1.12.1.1. Over the past few years, Jordan witnessed legislative amendments that were not compatible with the international human rights standards. Laws continue to reveal that major defects remain. Jordanian legislations impose restrictions on the freedom of expression and the media. There are numerous legislations that include restrictive articles, starting with the freedom-depriving penalties, and extending to

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<sup>23</sup> <http://aliftaa.jo/Question2.aspx?QuestionId=2889#.WRIvjYh96UK>

exorbitant financial fines. This report provides a brief idea regarding the freedom the press and the media:

- 1.12.1.1.1. The Jordanian Penal Code includes a number of legal terms that restrict the freedom of the media and publication and subject media professionals to legal prosecution if they criticized the King or a foreign state, or if they called for a fundamental change of the political regime and its structure. They could be accused of crimes such as slander, disturbing relations with a foreign country, or calling for undermining the regime. The Jordanian Penal Code was used in more than one situation to accuse journalists of these crimes after publishing press material that addresses these issues. Media outlets continue to be prosecuted based on the Penal Code which includes freedom-depriving penalties in media cases.
- 1.12.1.1.2. The charge of "disturbing relations with a foreign country," after amending the Anti-Terrorism Law in 2014 is considered the jurisdiction of the State Security Court and is punishable by 5 years in jail according to article 118 of the Penal Code. This punishment could reach 15 years in case of a temporary hard labor sentence based on the Anti-Terrorism Law.
- 1.12.1.1.3. The government did not take into consideration the principle of full compatibility and amendment of national legislations in response to the recommendations of the Human Rights Committee. What the government actually did was procedural amendments that do not address the core of protecting the freedom of opinion, expression and the press.
- 1.12.1.1.4. The government did not fully guarantee the right to practicing the freedom of expression, and codes related to media outlets, including the freedom of the internet were not amended. Sufficient guarantees to practice the freedom of opinion and expression, according to the International Convention for Civil and Political Rights were not provided.
- 1.12.1.1.5. The government did not harmonize national legislations with article 19 of the International Convention for Civil and Political Rights. It did not perform the required amendments to a number of legislations related to the freedom of the media, including, for example, the Press and Publications Law, the Press Association, the Penal Code, the State Security Code, and the Anti-Terrorism Law.
- 1.12.1.1.6. The government did not review the Press and Publication Law which has been severely criticized so far, and did not lift the restrictions it involves, including the condition of licensing websites. It should be pointed out that the Anti-Terrorism Law allows the trial of journalists before the State Security Court, and it includes freedom-depriving penalties in cases where journalists are prosecuted according to it.
- 1.12.1.1.7. Although more than 8 years have passed since the Right to Access Information was enacted, its implementation is still limited, and many ministries and institutions have not yet classified information or set mechanisms for implementing it. The exemptions stated in the

- law continue to be unjustifiably expanded, which contradicts article 19 of the International Convention for Civil and Political Rights.
- 1.12.1.1.8. Media outlets continue to be prosecuted according to the Penal Code, which includes freedom-depriving penalties in media issues. The Ministry of Justice formed a committee to amend the law, and the committee prepared a preliminary draft, but none of the articles or items of the law have been amended to date.
- 1.12.1.1.9. The government has not reviewed article 3-A of the State Security Court Law, to amend its legal text to include removing the State Security Court's jurisdiction to address press and publications cases and/or audio visual media, so that the issue is restricted to the court of first instance.
- 1.12.1.1.10. The government did not exert any effort to implement the actual practice of the freedom of opinion and expression. Violations and a policy of impunity continue, and the government or law-enforcement systems did not hold accountable any of the suspected violators, or even to review interrogation principles by referring them to the civil judiciary instead of resorting to police courts.
- 1.12.1.1.11. The government did not perform fair and independent investigations in all assault cases against civilians, their harassment and intimidation, bringing the criminals to justice. It did not activate, as it should, any dialogue with the stakeholders concerned or the civil society for the purpose of reviewing the laws that place restrictions on the media.
- 1.12.1.1.12. CDFJ did not record any case where victims from among the journalists who were tortured or mistreated deserved reparations and just compensation for the harm sustained, as well as retrieval of reputation or any other measures to ensure the right of victims to security, health protection, and prevention of recurrence of the assaults they were subjected to.
- 1.12.1.1.13. The government did not set any mechanisms or measurement indicators to monitor the implementation of its commitments. Reports of monitoring performed by CDFJ indicated that the government's review of the legislative environment regulating the media is still very limited, and the government did not submit to the parliament draft laws that amend the response to the recommendations.
- 1.12.1.1.14. The government continued to practice pressure and intimidation against media professionals through arbitrary detention that is incompatible with the Criminal Trials Procedures Law. Detention is resorted to in order to protect society from danger, and/or to influence justice, and/or if there is no known place of residence. This does not apply to what is known as the freedom of expression crimes and the media, in addition to the continued dealing with these cases as criminal cases. In democratic countries, they are treated as civil cases punishable by financial fines.

**Table Number (3): Violations Monitored by CDFJ against Media Professionals as a Result of their Daily Work over the Years 2010 - 2016**

No	Type of Violation	2010	2011	2012	2013	2014	2015	2016	Total	%
1	Blocking Websites	13	3	1	291	9	2	2	321	30.4
2	Prevention from Coverage	3		10	42	30	4	45	134	12.7
3	Threats of Inflicting Harm	14	22	11	14	13	1	7	82	7.8
4	Verbal Assault	2	4	14	8	11		3	42	4
5	Harassment	27		8	12	9	1	20	77	7.3
6	Physical Assaults	5	26	10	5	13	2	3	64	6
7	Arbitrary Arrest	2		1		16		5	24	2.3
8	Deprivation of Freedom	4	10	3	4	19	5	1	46	4.4
9	Blocking Information	34	7		5	7	3	2	58	5.5
10	Confiscation of Work Tools			5	3	2		2	12	1
11	Electronic Piracy		1	4		2			7	0.7
12	Assaulting Work Tools			1		2	2	4	9	0.9
13	Prior Censorship	9	1		8	3			21	2
14	Post-Censorship				2	3			5	0.5
15	Inciting Violence			1		2	3		6	0.6
16	Security Investigation				3	1	1	3	8	0.7
17	Assault on Private Property			3					3	0.3
18	Damage to Property				3				3	0.3
19	Death Threats					2			2	0.2
20	Arbitrary Detention	3			2		9	2	16	1.5
21	Prevention from Media Work			1	1			1	3	0.3
22	Assault on Workplaces			1		1			2	0.2

23	Prohibition from Publishing and Distribution	9	15			2	3	13	42	4
24	Ethnic Discrimination				2				2	0.2
25	Sustaining Injuries				5	1	1		7	0.7
26	Deprivation of Treatment					1			1	0.1
27	Loss of Property					1		2	3	0.3
28	Withholding Work Tools					1		4	5	0.5
29	Deletion of Camera Content					1	1	1	3	0.3
30	Arbitrary Dismissal	4	2						6	0.6
31	Refusing to Grant Coverage Permit	3			5			1	9	0.9
32	Torture					1			1	0.1
33	Prohibition of Radio and TV Broadcasting						10	1	11	1
34	Unfair Trial						7	3	9	0.9
35	Humiliating Treatment						2	7	9	0.9
36	Assault on the Sanctity of Private Places							2	2	0.2
37	Confiscation of Identity Papers							1	1	0.1
<b>Total</b>		<b>132</b>	<b>91</b>	<b>74</b>	<b>415</b>	<b>153</b>	<b>57</b>	<b>135</b>	<b>1056</b>	<b>%100</b>
		<b>14.3 %</b>	<b>%10</b>	<b>%8</b>	<b>%45</b>	<b>%16.6</b>	<b>%6.2</b>	<b>%12.8</b>	<b>%100</b>	<b>%100</b>

1.12.1.2. The recommendations related to the freedom of the press may be summarized as follows:

1.12.1.2.1. Work on amending the Press and Publications Law to achieve the following:

1.12.1.2.1.1. Cancel the requirement of licensing for websites

1.12.1.2.1.2. Consider crimes committed by a press publication a civil and not a criminal offense.

- 1.12.1.2.1.3. Commit to the principle of the individuality of the penalty in charging journalists and ending the assumed responsibility of the chief editor.
  - 1.12.1.2.1.4. Cancel the authority of the Media Commission Chairman to block websites.
  - 1.12.1.2.1.5. Add a legal text that guarantees that no journalist is tried except in accordance with the Press and Publications Law.
- 1.12.1.1.1 Amend the Right to Access Information Law to contribute to maintaining the right of society and media professionals to knowledge, by observing the following:
- 1.12.1.1.1.1 Impose penalties against anyone who does not comply with providing information in public institutions.
  - 1.12.1.1.1.2 Cancel the exceptions stipulated in article 13 of the Law, which contradict article 19 of the International Covenant for Civil and Political Rights.
  - 1.12.1.1.1.3 Making the decision of the Information Council binding.
  - 1.12.1.1.1.4 The right to access information should not be connected to the concept of "legitimate interest."
  - 1.12.1.1.1.5 Give the right to access information precedence over the restricting articles in the State Documents and Secrets Law.
- 1.12.1.1.2 Reconsider the Audio-Visual Law, allowing:
- 1.12.1.1.2.1 The amendment of article 18 so that the Cabinet of Ministers provides reasons for withholding licensing within 30 days. This decision is to be subject to contestation and appeal.
  - 1.12.1.1.2.2 Cancel any prior or post censorship or any restriction on broadcasting
  - 1.12.1.1.2.3 Identify the means for entering public service.
  - 1.12.1.1.2.4 Reduce fees on broadcasting and re-broadcasting of community and/or local radio and television material so that these stations are transferred to the public service principle used in most countries of the world.
- 1.12.1.1.3 Amend the Press Association Law to permit compatibility with the standards international human rights law, particularly material stated in the International Covenant for Civil and political Rights, which contradict the obligatory membership in the Press Association as a condition for practicing journalism.
- 1.12.1.1.4 Amend the Penal Code to make it compatible with international conventions and treaties, including:
- 1.12.1.1.4.1 No jurisdiction to address cases of press and publications and/or audio visual media cases.
  - 1.12.1.1.4.2 Cancel the article that permits referring journalists to the State Security Court.

- 1.12.1.1.4.3 Stop classifying and considering crimes against the freedom of expression and the media as crimes against the state internal and external security.
- 1.12.1.1.5 Commit to publishing information about the state of the government implementing its commitments according to the recommendations of the Human Rights Committee and the recommendations accepted before the Universal Periodic Review of human rights, as well as the Anti-Torture Convention and other conventions related to the freedom of expression and the media.
- 1.12.1.1.6 Expedite the implementation of the National Human Rights Plan within a shorter period of time in coordination with civil society institutions.
- 1.12.1.1.7 Control by the government of the routine practices by those who implement the law, control and monitor practices that include violations against media professionals while practicing their media work, and deal with these violations with the purpose of guaranteeing that there is no impunity involved, and the need to reveal the steps followed by the government in this framework.
- 1.12.1.1.8 Dedicate the concept of protecting the right to the freedom of opinion, expression, the media, the press, and peaceful congregation among public servants and law enforcement personnel.
- 1.12.1.1.9 Train all public personnel and members of the security system and law enforcement officers on the basic rights and freedoms people should enjoy based on international conventions related to human rights and the Jordanian constitution.
- 1.12.1.1.10 The need to continue work on involving stakeholders in the national consultation process to prepare national reports on human rights.
- 1.12.1.1.11 Follow a public declared policy in providing protection for peaceful congregations and demonstrations according to Jordan's commitments, penalizing members of the security forces who were involved in physical assaults or acts of humiliation, including assaults against journalists, and issuing instructions in this respect publicly in order to enhance the serious nature of this policy.
- 1.12.1.1.12 Embark immediately on introducing legislative amendments that absolutely prohibit including perpetrators of torture in any laws that pardon their behavior, and to state clearly without alteration that pardon should not include serious violations of human rights



such as torture, that these crimes are not subject to being dropped, and that perpetrators of such crimes must be tried.

- 1.12.1.1.13 Guarantee the right of torture and harsh and inhuman treatment victims to reparations and compensation through resorting to civil courts to complain and raise lawsuits .
- 1.12.1.1.14 Cancel the jurisdiction of police courts in addressing cases related to practices by members of the security systems and police officers of torture and other forms of harsh, inhuman, and degrading treatment, and refer any cases in this framework to criminal courts of jurisdiction.
- 1.12.1.1.15 Guarantee the rights of detainees to contact lawyers and family members and impose penalties on police and security officers in case they refrained or were neglectful in guaranteeing that detainees practice this right in a manner that guarantees reporting of abuse or torture to parties outside the detention location .
- 1.12.1.1.16 Guarantee the secrecy and privacy of communication between lawyers and detainees in detention locations in a way that guarantees freedom to talk away from the observation of workers in these areas about what they were subjected to in terms of abuse or torture.
- 1.12.1.1.17 Follow an open and declared policy in providing protection to peaceful congregations and demonstrations according to Jordan's commitments, and penalizing members of the security forces who are involved in physical assaults or humiliating behavior, including assault against journalists, and issuing instructions in this respect publicly to reinforce the serious nature of this policy .
- 1.12.1.1.18 Open an investigation with the participation of observers from human rights independent and civil society organizations in all assault and harsh, inhuman, or degrading treatment incidents since 2011, and enable investigators to access all sources of evidence available, to interview witnesses, inspect documents, visit the location, and issue an independent report on the responsibility of the perpetrators in these incidents.
- 1.12.1.1.19 Enable the public prosecutor's office to raise lawsuits against all perpetrators in serious assaults that include torture and harsh treatment in the name of the public right.
- 1.12.1.1.20 Guarantee the right of individuals in demanding reparations and compensations for the torture or harsh treatment they were

subjected to within the context of fair and transparent judicial procedures.

- 1.12.1.1.21 Amend the internal bylaws of the lower house of parliament which allows holding closed sessions, preventing journalists from covering them, along the principle that holding closed sessions is a violation of the right to access information provided by a public authority.
- 1.12.1.1.22 End the use of the accreditation system which restricts journalists who wish to cover the lower house's work, and settling for journalists submitting prior notification or notice to the house's secretariat of their wish to cover the house's work, due to the absence of the absolute need of the house for an accreditation system that is restrictive, taking into consideration that the International Human Rights Law opposes such systems to begin with.
- 1.12.1.1.23 End any discrimination in treating journalists and media professionals, not requiring their membership in any union or association, and allowing unions multiplicity to facilitate their work in the house.

### **1.13 Right to Peaceful Assembly and the Freedom of Forming Associations (Articles 21 and 22)**

#### **1.13.1 Issue (21): Public Assembly Law**

- 1.13.1.1 The government's amendment of the Public Assembly Law was compatible in form and partially with the International Covenant for Civil and Political Rights, in spite of asserting the recommendation of the Human Rights Committee number 11, which came within the framework of the periodic reviews recommendation of the second periodic reports, which were due for submission in October 2014, to amend the law and "take the necessary measures to make the restrictions imposed on the freedom of peaceful gathering exactly matching the provisions of article 21 of the Covenant."
- 1.13.1.2 Article 4 of the law after amendment allowed the organization of peaceful gatherings (gathering - demonstration) without the condition of obtaining the approval of the administrative ruler, restricting it to notification instead of approval. It is noticed, however, that the amendment was not as required, as the restrictions moved from the legislative side to the practice side.
- 1.13.1.3 The years 2015 - 2016 witnessed cases of prohibition, breaking, harassment, and detention during the practice of peaceful gathering. They were followed once by a justification from the administrative ruler and others without revealing the reason for the restriction. The violations included breaking the sit-in of the Kaluti Group repeatedly, one of which was the sit-in rejecting Israeli practices at Al-Aqsa Mosque

on 22/10/2016. The administrative systems fenced off the square where activists normally sit-in on 1/11/2016. The administrative ruler justified fencing off the square as security considerations. Furthermore, the Gendarmerie forces broke a sit-in in front of the Lower House of Parliament by six parties that were objecting to the Elections Law on 21/2/2016, although there was a notification from these parties to the governor of the sit-in. Meanwhile, the secretary general of the Hasad Party, Dr. Mazen Riyal and his son, and the chairman of the Central Council of Al-Hayat Party, Dr. Abd Al-Fattah Al-Kilani were detained after the sit-in, before they were released on the same day. The administrative ruler still prohibits holding activities by the associations and centers, including three activities by Al-Finiq Center for Economic and Information Studies in Al-Quds Hotel, aimed at training labor and unionist groups and to release the results of a survey on the "Economic and Social Rights of Jordanians." The former governor Khaled Abu Zaid had prohibited journalist Hiba Obaidat from holding a seminar on the parliamentary elections on 28 August, 2016 at the Saqiat Al-Darawish Café. Holding marches against the gas agreement between Jordan and Israel was repeatedly prohibited in the governorates of Al-Zarqa' on Friday 25/11/2016 and Irbed on 6/10/2016. The campaign's sit-in on 12/11/2016 in front of the Prime Ministry was broken.

- 1.13.1.4 Al-Finiq Center for Economic and Information Studies monitored 37 activities that were harassed, prohibited, cancelled, or broken by the executive systems, including the case whereby student Ibrahim Obaidat was dismissed from Al-Hashimiyah University on 27/10/2016 for participating in an open student sit-in rejecting financial decisions by the university administration.
- 1.13.1.5 Some gatherings witnessed the detention of participants after dispersing them, such as detaining participants in "The Enemy Gas is an Occupation" campaign in front of the Lower House on 11/11/2016, when about 50 participants were detained and released the same day. The security systems detained 10 people after dispersing the sit-in on 9/6/2016 that was demanding the government to add students returning from abroad to a test for the purpose of accrediting their degrees. On 29/6/2016, the Public Security detained activist Ibrahim Alloush for participating in a sit-in close to the Israeli embassy in Amman, while they detained on 18/02/2016 the father of the youngest prisoner in Israel, Abu Saddam. Organizers of the 16th Al-Aqsa Festival claimed that the festival tent was assaulted and drowned in water. On 3/1/2016, 8 demonstrators from the workers' representatives at the Aqaba Special Economic Zone were detained. Dispersing a sit-in by unemployed youth in Zhiban resulted in clashes between the security forces and a group of young men on 23/6/2016.

### **1.13.2 Issue (22): Forming Associations and Unions**

1.13.2.1 Regarding the freedom of forming associations and unions, this report summarizes the following:

1.13.2.1.1 Regarding associations, in spite of the recommendation by the UN Human Rights Committee of the need to amend the Associations Law, Jordan expressed that "it was decided to start drafting a law to amend the Associations' Law." The current law, the Associations' Law for the Year 2008, however, continues to be the applicable law in spite of the nominal amendments to it, which did not take into consideration the second part of the recommendation, namely, that "suitable arrangements be made to make any restrictions imposed on the freedom to form associations fully compliant with the provisions of article 22." Article 10-B of the law requires that the association be licensed with the approval of the Associations' Register secretary, and the law continues to allow interference in the work of associations (article 14/6/B. with its provisions imposing requiring that the Minister and the Register secretary be informed two weeks ahead of the date the general assembly is to be held, granting the Minister or the secretary the right to appoint a representative to attend the assembly meetings. The law also stipulated that it has the power to dissolve the association (article 20/2). Regarding financing, the laws continues (article 17/C/2) to allow the Cabinet of Ministers to approve or reject foreign financing of associations, to confiscate this financing, or dissolve the association by the Minister in case it received unapproved financing (article 19/4). When extending support to foreign financing, it was recently noticed that there are numerous and continuously changing bureaucratic demands, whereby different government parties need to be referred to review the foreign financing applications. These parties started to complicate the issue due to the high speed of changing the common procedures. It was also noticed that instructions change as people change, which results in delays for some associations in obtaining approvals and hence the loss of the project. Financing a number of projects was rejected without explaining the reason or reasons for the rejection. In this context, the Civil Society Institutions' Coordination Commission (Himam) believes that there is an expansion in imposing restrictions on financing applications for civil society institutions. After all this pressure and constraints to which civil society institutions are subjected, the outlet for some was to establish for-profit institutions and associations to overcome this obstacle more easily and quickly.

1.13.2.1.2 Regarding Trade Unions, tens of thousands of Jordanian workers are still deprived of organizing themselves in gatherings and bodies outside the framework of recognized trade unions according to the Labor Law, although the principles and decisions issued by the unions freedoms committee at the International Labor

Organization believes that failure to issue approvals is considered a basic element in the freedom of unions. Among the restrictions imposed by the law the requirement for 50 founders according to article 98 of the Labor Law, in addition to interference in the unions' affairs in terms of setting constitutions and internal bylaws in accordance with article 100 of the Labor Law, or control of its financial resources (article 109 A and B). Furthermore, the law does not permit the principle of trade union pluralism, contrary to what the Freedom of Trade Unions Committee principles stipulated. Among the tasks of the tripartite committee, according to article 98/D is to look into the establishment of a union or association or not, due to the nature of work or similarity of the union with other unions. This contradicts one of the principles and decisions issued by the Freedom of Trade Unions Committee at the ILO Board of Directors. Furthermore, the regulations still require trade unions to obtain approval from the Committee, with the General Federation of Trade Unions establishing a unified domestic system internally and requiring unions to adhere to it, according to the Labor Law (article 100). This also contradicts the principles of union organization freedom stipulated in the International Covenant for Civil and Political rights, and the ILO agreement number 87. At the level of practices, trade unions have not changed since the 1970s, and all attempts to establish new trade unions have been rejected.

1.13.2.1.3 Regarding political parties, the amended Parties Law (number 39 for the year 2015) has some positive sides compared to law number 16 for the year 2012), related to reducing the number of party founders from 500 to 150, and reducing the founder's age from 21 to 18. But the amended law still prevents the freedom of individuals from joining parties in many cases through its condition of the presence of 150 founding members according to article 6. The law also imposes the condition of registering the party to become legal, according to article 7, in addition to the condition of obtaining a license. The law also requires that 10 years have elapsed since a founding member obtained the Jordanian citizenship, according to article (6-B). At the practices level, prohibition from establishing parties is still present, whereby a group was prohibited from establishing the "National Gathering Party" with the excuse that it violates article 5-B of the Paris Law. Statements by the Political Development Minister at the time, Yusef Al-Shawarbeh, however, contradict what was mentioned in the minutes of the meeting to address the party establishment on 27/4/2016. Executive systems also closed in February 2016 the headquarters of the Islamic Action Front in Aqaba, before handing it over to the party leadership with a judicial decision.

## **1.14 Rights of the Child (Article 24)**

### **1.14.1 Issue Number (23)**

1.14.1.1 In principle, legal protection of children working in agricultural projects is restricted to the following:

1.14.1.1.1 Although the agricultural sector is included in the Labor Law, the regulation issued in accordance with the law to regulate labor issues in the sector has not been issued to date, although its draft was sent to the Cabinet of Ministers years ago, and hence, Ministry of Labor inspectors cannot implement the law. This includes, of course, child labor in the agricultural sector.

1.14.1.1.2 In 1997, the Minister of Labor issued a decision restricting hazardous jobs to children permitted to work, namely, after the age of 16. It was amended in 2011 and some agricultural tasks were added to it, but it needs a new amendment and more concentration on the hazards involved in agricultural work. Studying the amendment commenced with the ILO last year, but it has currently stopped.

1.14.1.1.3 Legal protection in family projects does not cover all working children, because the law excludes anyone working without pay. This means excluding the largest group of children working within the family framework, because they are basically working without pay.

1.14.1.1.4 The penalties stipulated by law for child labor violations include a penalty of JD300-500. In case of forced labor, the penalty is JD500-1000 (Labor Law amendments in 2008). There was a proposal to impose a criminal penalty of imprisonment as a deterrent for both cases, especially in the case of forced labor. It is not logical to deal with child labor as a labor violation, but should be considered a criminal offence.

1.14.1.1.5 The steps taken to implement the national framework to combat child labor in Jordan are not sufficient. Electronic connection among ministries (Labor, Education, and Social Development) is still ineffective, and the database established with the support of the ILO is not running. Furthermore, cooperation among ministries is still at its lowest level. There are no sufficient, qualified, and available staff members to implement the tasks of each party fully, and they do not have financial allocations to implement the framework.

## **1.15 Participation in Public Affairs (Article 25)**

### **1.15.1 Issue (24):**

1.15.1.1 Regarding reinforcing participation through parliamentary elections, the legal framework regulating the 18th council elections 2016 reinforced participation in administering the country through democratic representatives from a number of axes, with a number of issues that have not been taken into consideration by the Jordanian legislator. Following are the main axes:

- 1.15.1.1.1 The Elections Law number 6 for the year 2016 gave Jordanians who reached the age of 18 solar years the right to practice their right to vote through article 3-A. This would reinforce the rate of participation in the parliamentary elections, which is clear since the number of those who practiced their right to vote in the elections held in September 2016 exceeded those who practiced their voting right in the 2013 elections by 204357 voters.
- 1.15.1.1.2 Fifteen seats were allocated for women according to a women quota system, distributed over the governorates, in addition to the three Bedouin districts. The legislator, however, did not distribute the seats allocated for women at the level of the 23 electoral districts, which tarnished the fairness of the legal framework governing the election process.
- 1.15.1.1.3 The electoral districts were expanded during the 18th house elections from 45 districts to 23 districts, which contributed to reinforcing election fairness. However, the legislative authority is blamed for not dedicating the principle of transparency in dividing electoral districts and the seats allocated for them. It failed to dedicate a participatory approach in the election districts' distribution process. Furthermore, dividing electoral districts did not accompany international standard related to dividing electoral districts.
- 1.15.1.1.4 There was a clear contrast regarding the ceiling of spending allocated for electoral districts. For example, the nominated list in the second Amman district can spend the amount of JD1,201,356, but a list nominated in the middle Bedouin district extending geographically from Aqaba governorate to Al-Karak cannot spend more than JD320,159. In other words, the second Amman district spends four times that of a list nominated in the south Bedouin district.
- 1.15.1.1.5 The legal framework did not activate combating buying votes through the factors of controlling expenditure. Furthermore, the Independent Commission did not take into consideration the transparency by declaring the cases referred to the judiciary.
- 1.15.1.1.6 Within the legal framework, participation of religious and ethnic minorities in the parliamentary elections by allocating seats for these minorities.
- 1.15.1.1.7 The legal framework overlooked the right for election by expatriate Jordanians. The Jordanian legislator should work at providing this right to expatriates to guarantee their participation as Jordanians in administering their country.
- 1.15.1.1.8 The relative open list system was adopted in the Election Law number (6) for the year 2016. This granted voters an equal number of votes to the number of seats allocated for the election district.
- 1.15.1.1.9 Adopting the relative open list system was not sufficient to cancel the individual tone and the effect of the one vote on the elections

results especially that the number of lists from which only one representative succeeded reached to 82.

- 1.15.1.1.10 The lists nominated looked individual due to the practices followed by some nominees, since that individual was the head of the list. The Jordanian legislator could not include and articles capable of eradicating the one vote legacy.
- 1.15.1.2 Regarding the poor representation of women in council and bodies formed, fair balance and representation is not observed when forming these bodies. In the Upper House councils, women representation is low at 15.3%, and women are not represented in the membership of the Constitutional Court, in spite of the availability of many qualified women to occupy this position. After women representation in the Independent Election Commission was 40%, the ratio went down to 20%. And although the percentage of women participation in the parliament is high at 15.3%, which is the highest to date (20 seats for women out of a total of 130), the efforts by the women movement in Jordan did not succeed in raising the percentage of seats allocated for women to form one seat for women in each electoral district instead of one seat for each governorate and the three Bedouin districts. As we urge the government to facilitate women participation as voters and candidates through ensuring their integrity, fighting political money, facilitating procedures for women to access voting stations, ensure making them aware of the 2016 Election Law and ways of nomination and voting, encouraging them to participate effectively, highlight their role in society, and change the stereotype image which restricts their participation, in addition to facilitating measures for the participation of women and girls with disabilities and the elderly, preparing voting stations to be suitable for them, and send awareness and directive messages in a language they understand. Women must be involved in any special control, administrative, or supervisory committees in the election process at the decision-making level. Official media outlets should be used to encourage women to participate in the election process, and allocate programs that highlight their achievements, promoting women candidates and providing them with equal opportunities with their counterparts to promote their election programs. Women must be encouraged to join political parties and increase their numbers as members in boards of directors. All that was mentioned above applies to women participation in municipal elections, governorate councils, and other elected bodies.
- 1.15.1.3 Regarding occupying positions, Jordan suffers from the absence of information and transparency, and making them available to the people in various areas, including mechanisms to select officials in leadership positions. The government is absenting the practice of transparency in its work in this field, and the government is not implementing specific measures and stages for the mechanism of selecting officials. Due to the problems raised regarding appointment in some positions, including failure to observe the standards of



integrity, transparency, and equal opportunities, the government moved towards approving the Appointment in Leadership Positions Regulation number 3 for the year 2013, out of its desire to create a legislative framework that specifies a clear mechanism for this purpose so that this regulation is the only reference for appointment in leadership positions. However, this legislative framework came with a regulation from the Cabinet of Ministers which, according to constitutional frameworks, is not presented or discussed by the lower house, in addition to a number of negative aspects that accompanied this system, and the negative practical applications of its context. Hence, it did not form a national tool to achieve the aim for which it started. Among the problems facing this regulation are: Article (2) of the regulation excluded some functions, restricting it to leadership position from the second group of the upper category. This way, it excluded the positions stated in group one of the upper category, which is the one where verification of the competence and qualifications, such as the Director of the Civil Service Bureau, Director of the Legislation and Legal Opinion Bureau, and the Director of the Accounting Bureau. Article 4 of the Regulation stipulates the need to issue a job description manual for the leading positions, but until now, this manual has not been published. The regulation pointed out that a committee would select candidates from the government. This committee should be neutral and far from the appointment authority. The Regulation did not identify the subjective and procedural guarantees through which the committee operates and issues its decisions. In addition, article 6 of the Regulation is not required to announce widely the vacant position, but settled for publishing on the Prime Ministry's website. In addition, the Regulation does not identify the mechanism of competition among applicants by organizing a test or an interview, or using guarantees of transparency, neutrality, and good governance. Although the reasons justifying this Regulation were for reinforcing transparency and integrity in appointment, the Regulation did not include any text that requires committees to reveal the names of applicants and selection criteria, publishing a detailed report on the flow of procedures and comparing applicants. The problem also lies in the text of article 10 paragraph B of the Regulation, which give the Cabinet of Ministers the right to appoint in leading positions without adhering to procedures and conditions stipulated in the Regulation, with the excuse that these functions have a specific and special nature, and in specific and special cases required by necessity, especially that this article of the Regulation did not specify clearly what is meant by specific cases or specific nature, what is meant by cases of necessity, and what are the standards through which one can know whether or not these cases exist. Tracing many international indicators relevant to combating corruption in Jordan, we see that the institutional tracks and practices are still there and could not create a state of a general popular awareness of the importance of combating

corruption among the people or a general deterrence of the perpetrators of these crimes, through the following:

- 1.15.1.3.1 The administrative corruption phenomenon is considered among the most extensive forms of corruption in Jordan, manifested in crimes violating public office such as bribe, embezzlement, and position abuse, and others related to public confidence, such as forging the seal of a department, forfeiting currency, debt bonds, or financial securities, and economic crimes that cause damage to public funds.
- 1.15.1.3.2 Among the most common forms of corruption is what is known as "Wasta and Nepotism," and failure to abide by laws and regulations. The main reasons behind corruption lie in the low level of salaries and high cost of living, as well as the difference in income between the public and private sectors, lack of transparency, spread of poverty, absence of work ethics, low level of good behavior, and external pressures exerted by interest owners,
- 1.15.1.3.3 According to a report by the Anti-Corruption Commission in 2014, there were 151 court cases of which 102 were recorded in the public sector, 34 in the private sector, and 15 with individuals as follows: Abuse of authority 18 cases in the public sector, breach of duties 4 cases in the public sector, abuse of public funds 34 cases in the public sector and 17 in the private sector, use of position for personal gain 12 cases in the public sector, counterfeiting in the public sector 16 cases.<sup>24</sup> Results of a public opinion survey in Jordan show that citizen confidence in the official public performance is low, with satisfaction in the government for 2014 at 47%, the lower house 32%, and political parties at 31%.<sup>25</sup>
- 1.15.1.3.4 In the study analyzing the National Integrity System implemented by Rashid Organization for International Transparency - Jordan in 2016,<sup>26</sup> it was evident that the pillars of national integrity in Jordan varied between medium and poor, with the poor ones rising to the top level to touch the average in some axes, according to the Transparency International Organization methodology.<sup>27</sup> Table number (4) shows the scores recorded by institutions that were evaluated.

**Table (4): Scores Achieved by Institutions Evaluated by the National Integrity Evaluation System**

Column / Axis	Total Level of Column
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<sup>24</sup> Summary of the Anti-Corruption Report 2014. [www.jfranews.com.jo](http://www.jfranews.com.jo)

<sup>25</sup> Results of a survey by the Center for Strategic Studies at the University of Jordan regarding important and national issues. Results are published on the website: [www.assabeel.net](http://www.assabeel.net)

<sup>26</sup> To examine the study, please refer to the Rasheed website at: [www.rasheedti.org](http://www.rasheedti.org)

<sup>27</sup> To examine the methodology, please visit the Transparency International website at: [www.transparency.org](http://www.transparency.org)

Legislative Authority	40/100
Executive Authority	33/100
Judiciary	63/100
Public Sector	39/100
Law Enforcement Commission	42/100
Anti-Corruption Commission	57/100
Independent Election Commission	54/100
Complaints Bureau (Office of the Ombudsman)	42/100
Accounting Bureau	58/100
Political Parties	38/100
The Media	35/100
Civil Society	38/100
Private Sector	43/100

1.15.1.3.5 The evaluation and analysis of the above study revealed the main problems from which the national integrity system in Jordan suffers. The main sources of worry can be addressed as follows:

1.15.1.3.5.1 Political authorities in Jordan, especially the executive and legislative, suffer from poor general performance and the inability to effect noticeable development in the institutional tools that enable each authority to perform its roles.

1.15.1.3.5.2 Current expenditure consumes the lion's share of the public allocations of the state institutions, and the administrative inflation is one of the most significant obstacles facing the success of national efforts.

1.15.1.3.5.3 The legislative authority suffers from a general weakness, whereby the performance, role, and independence indicators and resources face a number of challenges. Perhaps the main challenge is the failure to complete building the shape of the political system (parliamentary), which prevents group institutional work among the council members and the formation of a parliamentary majority, in addition to the absence of a minority to observe. The result is the inability to influence the state's public policies in various areas, in addition to the limited role in discussing the Accounting Bureau's reports, and the inability to take decisions regarding the violations monitored and referring them to courts, in addition

to poor parliamentary experience in discussing the budget and laws in general.

- 1.15.1.3.5.4 In spite of the development in Jordan at the level of legislation, the state of ineffectiveness continues to accompany most laws, in addition to the deficit plaguing these laws.
- 1.15.1.3.5.5 Weak effective non-governmental parties, namely, the media, political parties, civil society, and private sector, which affirms the weakness of working through a participatory methodology with those sectors, which continues to be obscure and unclear. At a time when reinforcing the freedom of the media, opinion, and expression are emphasized (a freedom whose limit is the sky), laws are enacted and implemented by which journalists are detained and referred to the State Security Court in some cases.
- 1.15.1.3.5.6 Failure to develop a model law that governs the work of civil society institutions, and practices that could hinder the implementation of activities.
- 1.15.1.3.5.7 Failure to activate the Public-Private Partnership Law for the year 2014, and the inability to reinforce and protect the private sector to contribute effectively to reducing unemployment and poverty and attract investment.
- 1.15.1.3.5.8 The judiciary is still in need for infrastructural development and the development of a strategy or plans to avoid the judicial burden in cases addressed by a judge, in addition to weak human cadres supporting the judicial work.

## **1.16 Publishing Information Related to the Convention (Article 2)**

### **1.16.1 Recommendation (25):**

- 1.16.1.1 Jordanian organizations point out that no prior consultation took place by the government with the Jordanian civil society institutions when they prepared the official report. It was examined on the Committee's website after it was delivered to the Committee.