Universal Periodic Review:

Jordan

Second Cycle

Submission to the Stakeholders' Summary

Alkarama Foundation, 3 March 2013

1 Background
1.1 Institutional Framework
1.2 International Obligations and Cooperation with Human Rights Mechanisms
2 Torture and Impunity
3 Arbitrary Detention
4 Right to Freedom of Expression, Peaceful Assembly and Association
5 Recomendations

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1 Background

1. At its first Universal Periodic Review (UPR) in 2009, Jordan accepted numerous recommendations[1] in view of improving the overall human rights situation in the country. In the present stakeholder submission, Alkarama provides information regarding the implementation of these recommendations over the past four years, paying special attention to those relating to the issues of torture, arbitrary detention, freedom of peaceful assembly and association as well as freedom of expression.[2]

2. Developments in the human rights situation in Jordan since its first UPR cannot be seen independently from the upheaval in the Arab region since early 2011. Under the pressure of a growing protest movement, King Abdullah II was prompted to repeatedly dismiss his Government and implement some of the reforms he promised, such as reviewing the Public Gatherings Law[3] to allow for demonstrations to take place on the simple base of previous notification – although it should be noted that the security services' practice changed to resort to other provisions to prosecute peaceful demonstrators (see para. 18). Similarly, the 2011 amendment of the Constitution[4] fell short of expectations and promises as a provision to restrict the State Security Court's jurisdiction over civilians was rejected and a prohibition of gender-based discrimination was not included.[5] Thus, discontent continues to simmer in at least parts of the population, regularly peaking in demonstrations – which are sometimes dispersed violently – and resulting in the authorities' various efforts to maintain control of media content, opposition politicians and civil society.

1.1 Institutional Framework

3. Jordan remains a constitutional monarchy with the King holding extensive powers, as also described in Alkarama's stakeholder submission to the 1st UPR of Jordan.[6] The King is the head of state and supreme commander of the armed forces. He has the prerogative to appoint and dismiss the Prime Minister, although he promised to choose his Prime Minister in consultation with the Parliament starting from the January 2013 elections. He ratifies the laws and promulgates them, appoints judges and may dismiss them by decree.

4. The Jordanian National Assembly consists of the Senate (Majlis Al Aayan), composed of notables appointed by the King, and the Chamber of Deputies (Majlis Al Nuwab), which can be dissolved by the King. According to the 2012 Elections Law, the Chamber of Deputies now has 150 seats, with 108 seats elected in the country's 45 districts, 27 elected from nationwide party lists, and 15 seats reserved for women. With the new law, the Jordanians are now asked to cast two ballots; one for the seats allocated to their local constituency and one for the nationwide lists. But as the vast majority of the seats continues to be reserved for deputies elected in the districts and as these constituencies are designed to favour election of monarchy loyalists, the reform of the Election Law towards more representativeness remains at the centre of the opposition's demands, leading the main opposition forces to boycott the January 2013 elections. In line with the October 2011 amendments of the Constitution, these elections were the first prepared and overseen by the Independent Election Commission.[7]

5. The country's judiciary is composed of several court systems. Besides the ordinary courts administered by the High Judicial Council, other courts such as the religious courts competent to receive personal and family related cases and the State Security Court (SSC) exist. In particular the SSC, working closely with the General Intelligence Directorate (GID) and made up of two military and one civilian judge, is notorious for its disrespect of the right to a fair trial of the defendants. Although

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1 In the present report, we will refer to the recommendations accepted by Jordan during the first cycle of the UPR listed under paras. 92 and 93 of the Report of the Working Group on the Universal Periodic Review (A/HRC/11/29) while taking into account the views expressed by the State under review as published in the Report of the Human Rights Council on its eleventh session (A/HRC/11/37, paras 654-686).

2 Reference to relevant recommendations and citations is, where appropriate, provided in the footnotes.

3 The text of the *Public Gatherings Law*, law No. 7/2004, published in the Official Gazette No. 4653 on 15 April 2004, as amended by law No. 5/2011, published in Official Gazette No. 5090 on 2 May 2011, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=2004 (accessed on 28 February 2013).

4 The text of the *Constitution* of 1 January 1952, as amended in 2011, can be found in Arabic at http://www.representatives.jo/pdf/constitutions.pdf (accessed on 28 February 2013).

5 Recommendations 93.6 from Slovenia and Mexico and 93.8 from the Netherlands have not been implemented fully.

6 Alkarama, *Stakeholder Submission on Jordan to the Universal Periodic Review Working Group at its fourth session*, 1 September 2008, http://en.alkarama.org/index.php?option=com_docman&task=doc_download&gid=48&Itemid=122 (accessed 28 February 2013).

7 Recommendation 93.14 from Canada was at least partially implemented.

its competencies were reduced to five areas of jurisdiction during the 2011 reform process, the provisions remain vague enough for broad and arbitrary application, allowing it to use its powers to the detriment of protesters, media workers and opposition figures. Other jurisdictions include the Military Courts and the Police Court, both criticised for their lack of independence when investigating and prosecuting infractions committed by officials. This creates a climate of impunity for crimes such as torture and ill-treatment. In October 2012, for the first time, judges for the newly established Constitutional Court were appointed by the King.

6. The Kingdom's security apparatus is, in addition to the military, made up of different security services. The King directly controls the GID, which is notoriously known for its sweeping powers to monitor public life in Jordan, its close ties to the US Central Intelligence Agency and its frequent use of torture and ill-treatment. The Ministry of Interior, in turn, oversees the Public Security Directorate (PSD), which administers the regular police forces as well as the prison personnel and whose Criminal Investigations Directorate (CID) has repeatedly been reported to use torture to extract confessions. The Ministry of Interior also controls the *Darak*, a special force authorised to use more force than the regular police, and therefore playing a key role in the violent dispersion of demonstrations over the last two years.

7. The Jordanian Government overall maintained its support for the National Centre for Human Rights (NCHR), in its quality of national human rights institution.[8] The NCHR is generally commended on its reports, which usually address relevant issues raised by civil society, although they are said to lack follow-up, which questions the effectiveness of the institution as such. In addition, its members are all appointed by the King. Some of the members' former positions as Prison Directors, for example, fail to instil the trust required by potential sources and plaintiffs, in addition to casting doubts as to the independence of the institution.

1.2 International Obligations and Cooperation with Human Rights Mechanisms

8. Jordan, which ratified the International Covenant on Civil and Political Rights (ICCPR) in 1975, has not ratified the Optional Protocol (ICCPR-OP1) nor the Second Optional Protocol to the International Covenant (ICCPR-OP2). Although the text of the Covenant was published in the Official Gazette in 2006, thus being enforceable under national law, the authorities failed to fully implement its provisions.[9] Jordan's 4th periodic report[10] was examined by the Committee on Human Rights in October 2010, but the State party did not provide follow-up information as required. The next periodic report is due in October 2014.

9. Jordan also ratified the Convention against Torture (CAT) in 1991 but has not made declarations under articles 21 and 22 of the Convention. Although the text of the Convention was published in the Official Gazette in 2006, thus forming an integral part of, and taking precedence over national legislation, the authorities have failed to fully implement its provisions.[11] It has not ratified the Optional Protocol to the Convention (OPCAT), which allows for preventive visits to all places of detention. Jordan's 2nd periodic report[12] to the Committee against Torture was examined in April 2010, but the State party failed to provide follow-up information. The next periodic report is due in May 2014.

10. Jordan has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance (CED).[13]

2 Torture and Impunity

11. As mentioned above, the Convention against Torture is fully enforceable under Jordanian law since 2006 and a definition of torture in line with article 1 of the Convention was included in article 208 of the Jordanian Penal Code in 2007. But neither the Constitution nor the Penal Code provide for

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8 Recommendation 92.7 from Afghanistan has been implemented.

9 Recommendation 92.4 from Chile has not been implemented fully.

10 Recommendation 92.14 from Algeria has been implemented with regard to Jordan's reporting obligations under the ICCPR.

11 Recommendation 92.4 from Chile has not been implemented fully.

12 Recommendation 92.14 from Algeria has been implemented with regard to Jordan's reporting obligations under the CAT. Recommendation 92.2 from the Czech Republic has been implemented with regard to the submission of pending reports to the CAT, but "more effective implementation of CAT" has not been sufficiently demonstrated, as steps such as providing follow-up to the CAT or the incorporation of the absolute prohibition of torture into national legislation were not undertaken.

13 Recommendation 93.1 from Argentina has been implemented, although it has regrettably not lead the Jordanian Government to sign and ratify the CED.

the absolute prohibition of all forms of torture, the aforementioned article only forbidding "any form of *unlawful* torture with a view to obtaining a confession to an offence or information thereon."[14] In addition, the sentences of six months to three years of imprisonment applicable for those found guilty of torture cannot be considered appropriate punishment and fail to provide a deterrent effect. Local NGOs have submitted a draft law to effectively criminalise torture in Jordan in 2011, but the suggestion was not taken up and no effective measures to address the deficiencies of the Penal Code have been taken since the last UPR.[15]

12. In practice, reports of torture and ill-treatment are still frequent.[16] Depending on the context, responsibilities mainly lie with the GID and the CID, when physical and psychological pressure is used to extract confessions, or the prison administration under the control of the PSD, when beatings or inhumane treatment are employed as a means of punishment in detention facilities. The latter is often the case after convicts protest deplorable detention conditions. In addition, incidents of excessive use of force against protesters are believed to fall under the responsibility of the *Darak* and the GID, increased in attempts to contain the regular demonstrations. Amongst the main groups of victims are terrorism suspects and peaceful activists, seemingly all treated as enemies of the State by the authorities.

13. In addition to remaining legislative shortcomings and the persistent practice of torture and ill-treatment, several factors contribute to the failure of Jordan to eradicate torture, most notably the near-absolute impunity for abuses committed on duty. Although several mechanisms to report transgressions by officials exist, not all of them can be considered independent and few measures have been taken to guarantee the plaintiffs' protection from reprisals, especially if the latter is a detainee.[17] In addition, some instances competent to receive complaints, such as prison directors, are still not obliged to refer allegations to the competent jurisdiction for investigation, but can order simple disciplinary measures against those believed to be responsible instead. Lastly, the courts competent to conduct investigations into alleged acts of mistreatment depend from the same administrative entity as the suspected offenders and therefore lack guarantees for independence of the judges.[18] Thus, cases involving prison guards, employed by the PSD, are treated by the Police Court, whose judges are appointed by the Director of the PSD. Unsurprisingly, sentences for crimes under Article 208 of the Criminal Code are rare[19] and victims are consequently deprived of "access to effective legal remedy"[20] and redress.

14. Given that issues related to torture remains one of Alkarama's main concerns with regard to the human rights situation in Jordan, we deem it all the more regrettable that the Kingdom's authorities have failed to provide follow-up information to either the Special Rapporteur on Torture or the Committee against Torture, in spite of their requests of November and December 2011, respectively.[21]

3 Arbitrary Detention

15. Administrative detention based on the Crime Prevention Law of 1954[22] remains the most important reason for arbitrary detention in Jordan, although imprisonment based on sentences handed down following unfair trials or deprivation of liberty in violation of basic rights and freedoms also occur.

16. The Crime Prevention Law grants wide powers to governors and district administrators to detain individuals, if the governor *has reason to believe* that a person is "about to commit a crime",

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[14] Article 208 of the Jordanian Penal Code of 1 January 1960 as amended by temporary law No. 49 of 2007 and as translated in the *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or Punishment, Manfred Novak, Addendum 2, to the Human Rights Council at its seventh session*, 18 February 2008, (A/HRC/7/3/Add.2), para. 247, (emphasis added).

[15] Recommendations regarding the integration of the provisions of the CAT into national legislation, including recommendation 92.3 from Oman, Morocco and Algeria, recommendation 92.4 from Chile, recommendation 92.18 from different States, recommendation 92.19 from Albania and recommendation 93.9 from Turkey, have not been implemented.

[16] Recommendations regarding efforts to eradicate torture, including recommendation 92.18 from Sweden, the Czech Republic and Germany have not been implemented fully.

[17] Recommendation 92.18 from the United Kingdom has not been implemented.

[18] Recommendation 92.18 from Germany has not been implemented.

[19] Recommendation 92.18 from the Czech Republic has not been implemented.

[20] Recommendation 92.18 from Sweden has not been implemented.

[21] Recommendations regarding the cooperation with international human rights mechanisms and in particular the Special Rapporteur on Torture, including recommendation 92.3 from Algeria, recommendation 92.14 from Kuwait and recommendation 92.18 from the Netherlands, have not been implemented fully.

[22] The text of the *Crime Prevention Law*, law No. 7/1954, published in the Official Gazette No. 1173 on 1 March 1954, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=1954 (accessed on 28 February 2013).

"habitually committed burglary (…) or protected burglars" or whose "release without a guarantee would constitute a danger to the people."[23] Governors' decisions can technically be appealed before the High Court of Justice, but financial barriers hinder the accessibility of the review mechanism and if initiated, the court mainly statutes on the legality of the procedures, not the evidence leading to the detention.[24] As external review of governors' decisions is weak, the latter enjoy considerable leeway and can apply their powers to bypass judicial oversight over the concerned individual's detention, thereby intimidating critics or rivals. According to the latest report by the NCHR, 11 345 persons were placed in administrative detention in 2011.[25]

17. Amendments to the Crime Prevention Law suggested by the Minister of Interior in 2011, which would have limited the period of administrative detention to 15 days without possibility of renewal, and would have provided for the prohibition of the practice of "protective custody", were never submitted to the Parliament, indicating a lack of political will to address concerns in this regard.[26]

4 Right to Freedom of Expression, Peaceful Assembly and Association

18. Before 2011, demonstrations were relatively rare and usually related to demands for better protection of workers, although those least protected, migrant workers, are not allowed to participate in strikes. In the wake of mass rallies in other Arab countries, Jordan also experienced a surge in peaceful demonstrations, putting considerable pressure on the Government. The King responded with limited and consecutive concessions, such as the amendment of the Public Gatherings Law[27] in March 2011, after which organisation of a demonstration required a simple notification rather than authorisation from the competent authorities. However, as protests continue, it is becoming apparent that the authorities actively circumvent the decriminalisation of peaceful assembly. In some cases, they resort to the anti-terrorism legislation and try protesters in front of the SCC, effectively depriving them of their right to a fair trial. In addition, many demonstrators report to have been violently attacked be the security forces during demonstrations and after being arrested.

19. With regard to freedom of press, restrictive national legislation clearly sets out red lines and the security services, most importantly the GID, closely monitor compliance. With the adoption of the Information System Crimes Law[28] in 2010, the provisions of the Press and Publications Law[29] as well as the revised Penal Code[30] were extended to virtual space. This covers criticism of the King, defamation of government officials and institutions – also applied when officials are accused of corruption – and offending Islam. Journalists may still face up to three years of prison for vaguely defined crimes such as spreading false information or disturbing public order.[31] With these prior restrictions, direct censorship is rarely necessary. In addition, recent research by the Jordanian Media Monitor found that 82% of the journalists interviewed believe that the Government actively controls media content through "soft containment", such as financial incentives or privileged access to certain types of information.[32]

20. As announced by the Jordanian Government in response to the recommendation to "[e]xamine and revise the recently adopted 'Law on Societies'"[33], the said text[34] of 2008 was amended in 2009,

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[23] Article 3 of the *Crime Prevention Law*, law No. 7/1954, published in the Official Gazette No. 1173 on 1 March 1954, http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=1954 (Arabic, accessed on 28 February 2013).

[24] Recommendation 93.11 from Ireland has not been implemented.

[25] NCHR, 2011 *التقرير السنوي الثامن: أوضاع حقوق الإنسان في المملكة الأردنية الهاشمية لعام* (*8th Annual Report: The Human Rights Situation in the Hashemite Kingdom of Jordan in 2011*), 2012, http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/NCHR%20Status%20report%202011.pdf (accessed on 28 February 2013), p. 12.

[26] Recommendations 92.22 from the Czech Republic and 93.11 from Ireland have not been implemented.

[27] The text of the *Public Gatherings Law*, law No. 7/2004, published in the Official Gazette No. 4653 on 15 April 2004, as amended by law No. 5/2011, published in Official Gazette No. 5090 on 2 May 2011, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=7&year=2004 (accessed on 28 February 2013).

[28] The text of the *Information System Crimes Law*, law No. 30/2010, published in the Official Gazette No. 5056 on 16 September 2010, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=30&year=2010 (accessed on 28 February 2013).

[29] The text of the *Press and Publications Law*, law No. 8/1998, published in the Official Gazette No. 4300 on 1 September 1998, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=8&year=1998 (accessed on 28 February 2013).

[30] The text of the *Penal Code*, law No. 16/1960, published in the Official Gazette No. 1487 on 1 January 1960, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=16&year=1960 (accessed on 28 February 2013).

[31] Recommendation 92.26 from Canada has not been implemented.

[32] Jordanian Media Monitor, *Third Study on the Soft Containment of and its Effects on the Independence of the Media*, May 2012, http://alqudscenter.org/uploads/Soft_Containment_3.pdf (accessed 28 February 2013), p. 1.

[33] Recommendation 93.13 from Mexico and Canada.

but falls short of recommendations made. Registration with the Ministry of Social Development's Societies Registrar in form of one of the four types of societies stipulated in the law remains mandatory[35] and activities by unregistered groups are punishable with up to two years of imprisonment. Further provisions restricting the scope of NGOs[36] include the prohibition of pursuing political aims, without further defining what a "political aim" is. General Assemblies must be announced to the Society Registrar in advance and the relevant authorities may appoint an officer to participate in the meeting. Foreign funding to societies must be approved by the Council of Ministers prior to reception. Additionally, NGOs also face limits imposed by the various laws governing freedom of expression as outlined above.[37]

5 Recommendations

21. Based on the above information, Alkarama recommends that Jordan:

1. Take concrete steps to reinforce the independence and effectiveness of its judiciary and other institutions, such as the NCHR and the IEC;
2. Abolish the SSC and take concrete steps to ensure that all courts fully respect the defendants' right to fair trial, including by ensuring access to legal counsel and public hearings before a competent jurisdiction;
3. Ensure effective parliamentary oversight for all security services, limit the extensive powers of the GID to monitor, arrest and detain individuals, including through effective separation of powers, in law and practice, between the authorities responsible for detention of suspects and those responsible for preliminary investigations;
4. Take concrete steps to eradicate torture, including by incorporating the absolute prohibition of torture and appropriate punishment into national legislation, extending regular courts' competencies to receive allegations of torture and to ensure effective and impartial investigations into all alleged cases of torture;
5. End administrative detention by abolishing the Crime Prevention Law and immediately releasing those detained based on its provisions or ensuring judicial review of their cases, should substantial evidence for crimes under the Penal Code exist;
6. Cease prosecution of peaceful protesters, especially before the SSC, end violent crackdown on demonstrations and investigate all related cases of excessive use of force and arbitrary arrest by the security forces;
7. Promote freedom of expression and press by lifting restrictions to freedom of speech and freedom of association as well as ending other practices aimed at controlling the work of journalists;
8. Create an enabling environment for civil society and human rights defenders in particular, including by reviewing the Law on Societies to remove government approval requirements for the creation of NGOs, reduce its interference to monitor and influence their activities as well as other ways to control their work;
9. Constructively cooperate with international human rights mechanisms and fully engages in the reviews before the relevant Committees, including through submitting reports for reviews and the follow-up procedure;
10. Ratify OPCAT, ICCPR-OP1, ICCPR-OP2 and CED and make declarations under article 22 of the CAT.

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[34] The text of the *Law on Societies*, law No. 51/2008, published in the Official Gazette No. 4928 on 16 September 2008, can be found in Arabic at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=51&year=2008 (accessed on 28 February 2013).

[35] Recommendation 93.13 from Canada has not been implemented.

[36] Recommendation 93.13 from Italy has not been implemented.

[37] Recommendations 92.8 from Lebanon and 93.13 from Mexico have not been implemented.